ASSEMBLY BILL No. 731

Introduced by Assembly Member Gallagher

February 25, 2015

An act to amend Sections 4115, 4120, 4201, 7590.2, 8538, 12518, 19556, 19599, 19605.7, 25350, 25503.6, and 25608 of, to amend and renumber Sections 1626.5, 7588.2, and 17550.42 of, to repeal Sections 125.3, 1917.2, 4945, 5082.5, 5095, 7000.6, 17530.6, and 18897.8 of, and to repeal the heading of Article 3.5 (commencing with Section 316) of Chapter 4 of Division 1 of, the Business and Professions Code, to amend Sections 56.36, 3486, 5910, and 5915 of, to repeal Sections 1936.5, 2923.55, 2924.19, 2924.20, and 2934a of, and to repeal Title 17 (commencing with Section 3272) of Part 4 of Division 3 of, the Civil Code, to amend Section 398, 629, 1277, and 2030.010 of, to repeal Section 116.222 of, to repeal the heading of Article 5 (commencing with Section 142) of Chapter 6 of Title 1 of Part 1 of, and to repeal the heading of Chapter 1 (commencing with Section 156) of Title 2 of Part 1 of, the Code of Civil Procedure, to amend Section 9321.1 of, and to amend the heading of Part 6 (commencing with Section 3601) of Division 3 of, the Commercial Code, to amend Sections 5047, 25620, 31116, 31121, and 31158 of, and to amend and renumber Section 12637 of, the Corporations Code, to amend Sections 1313, 2575, 2577, 8261, 8273.1, 8363.1, 8450, 8483.55, 8490.1, 9004, 17199.4, 17592.74, 32282, 35035, 35735.1, 41020, 42127, 42238.15, 42800, 44252, 44277, 44932, 44939, 44940, 44944, 44944.05, 44944.3, 46116, 47605, 47605.1, 47605.6, 47614.5, 47651, 48003, 48297, 48321, 48900.9, 49452.9, 51747.3, 52064.5, 52852, 66281.7, 67386, 69437, 70022, 70037, 76030, 78261.5, 82542, 87782, 87784.5, 88207.5, 89005, 89295, 89500.7, 89770, 92611.7, 92675, 94143, 94145.5, and 94880 of, to amend and renumber Sections 38047.5, 38047.6, 39672, 41207.3, and 66261.5 of,

to amend and renumber the heading of Article 7 (commencing with Section 66080) of Chapter 2 of Part 40 of Division 5 of Title 3 of, to amend and renumber the heading of Chapter 11 (commencing with Section 19900) of Part 11 of Division 1 of Title 1 of, to repeal Sections 8350.5 and 41851.1 of, to repeal the heading of Article 2 (commencing with Section 12210) of Chapter 2 of Part 8 of Division 1 of Title 1 of, to repeal the heading of Article 1 (commencing with Section 32200) of Chapter 2 of Part 19 of Division 1 of Title 1 of, to repeal the heading of Article 7 (commencing with Section 33390) of Chapter 3 of Part 20 of Division 2 of Title 2 of, to repeal the headings of Article 3 (commencing with Section 46330) and Article 4 (commencing with Section 46340) of Chapter 3 of Part 26 of Division 4 of Title 2 of, to repeal the heading of Article 2 (commencing with Section 48810) of Chapter 5 of Part 27 of Division 4 of Title 2 of, to repeal the heading of Article 8 (commencing with Section 54750) of Chapter 9 of Part 29 of Division 4 of Title 2 of, to repeal the heading of Article 7 (commencing with Section 68090) of Chapter 1 of Part 41 of Division 5 of Title 3 of, to repeal the heading of Article 3 (commencing with Section 72632) of Chapter 6 of Part 45 of Division 7 of Title 3 of, to repeal the heading of Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of Division 7 of Title 3 of, to repeal the heading of Article 3 (commencing with Section 78440) of Chapter 3 of Part 48 of Division 7 of Title 3 of, to repeal the heading of Article 4 (commencing with Section 82360) of Chapter 7 of Part 49 of Division 7 of Title 3 of, to repeal the heading of Article 1 (commencing with Section 84300) of Chapter 3 of Part 50 of Division 7 of Title 3 of, to repeal the heading of Article 2 (commencing with Section 85210) of Chapter 8 of Part 50 of Division 7 of Title 3 of, to repeal the heading of Chapter 3 (commencing with Section 37400) of Part 22 of Division 3 of Title 2 of, to repeal the heading of Chapter 14 (commencing with Section 52980) of Part 28 of Division 4 of Title 2 of, to repeal the heading of Chapter 8.5 (commencing with Section 56867) of Part 30 of Division 4 of Title 2 of, to repeal the heading of Chapter 4 (commencing with Section 78600) of Part 48 of Division 7 of Title 3 of, to repeal Chapter 17 (commencing with Section 11600) of Part 7 of Division 1 of Title 1 of, and to repeal and amend Section 32289 of, the Education Code, to amend Sections 2150, 2157, and 8040 of the Elections Code, to amend Sections 6203, 6301, 7613.5, 8712, 8811, and 8908 of, to amend and renumber Section 3201 of, to repeal Sections 3690 and 4051 of, and to repeal the heading of Article 3 (commencing

with Section 3780) of Chapter 7 of Part 1 of Division 9 of, the Family Code, to amend Sections 12201, 17201, 22066, 22101, 23005, and 32208 of, to amend and renumber Section 23015 of, to repeal Section 24058 of, to repeal the headings of Article 1 (commencing with Section 32700) and Article 2 (commencing with Section 32710) of Chapter 6 of Division 15.5 of, and to repeal the heading of Chapter 8 (commencing with Section 50601) of Division 20 of, the Financial Code, to amend Sections 1652, 1653, 1654, 1745.2, and 12002 of the Fish and Game Code, to amend Sections 6045, 6047.9, 12996, 12999.5, 13186.5, 19227, and 78579 of, to amend and renumber the heading of Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of, and to repeal Sections 55462 and 77103 of, the Food and Agricultural Code, to amend Sections 6254, 6276.22, 6700, 8753.6, 11146.2, 13956, 15155, 15814.22, 16183, 17581.6, 18720.45, 53398.52, 53398.75, 56378, 65352.5, 65583.2, 65995.7, 75070, 75521, 82015, and 95014 of, to amend and renumber Sections 13994, 13994.1, 13994.2, 13994.3, 13994.4, 13994.5, 13994.6, 13994.7, 13994.8, 13994.9, 13994.10, 13994.11, 13994.12, 14670.2, 22960.51, 31685.96, 53216.8, and 65080.1 of, to amend and renumber the heading of Chapter 14 (commencing with Section 5970) of Division 6 of Title 1, to amend and renumber Article 6 (commencing with Section 12099) of Chapter 1.6 of Part 2 of Division 3 of Title 2, to amend and renumber Article 18 (commencing with Section 14717) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of, to repeal Sections 4420.5, 12804, 13312, 14254.5, 14829.2, 19995.5, and 43009 of, to repeal the heading of Article 8.5 (commencing with Section 8601) of Chapter 7 of Division 1 of Title 2 of, to repeal the heading of Article 8 (commencing with Section 11351) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of, to repeal the heading of Article 1 (commencing with Section 11370) of Chapter 4 of Part 1 of Division 3 of Title 2 of, to repeal the heading of Article 7 (commencing with Section 13968) of Chapter 5 of Part 4 of Division 3 of Title 2 of, to repeal the heading of Article 2 (commencing with Section 72054) of Chapter 8 of Title 8 of, to repeal the heading of Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 of, to repeal the heading of Chapter 3 (commencing with Section 980) of Part 5 of Division 3.6 of Title 1 of, to repeal the heading of Chapter 4 (commencing with Section 14730) of Part 5.5 of Division 3 of Title 2 of, to repeal the heading of Chapter 5.5 (commencing with Section 19994.20) of Part 2.6 of Division 5 of Title 2 of, to repeal the heading of Chapter 10 (commencing with Section 95030) of Title 14 of, and to

repeal Article 12 (commencing with Section 16429.30) of Chapter 2 of Part 1 of Division 4 of Title 2 of, the Government Code, amend Sections 678.3, 1159.2, and 6087 of, and to repeal Section 1159.1 of, the Harbors and Navigation Code, to amend Sections 442.5, 1347.5, 1357.504, 1358.18, 1367.004, 1367.035, 1367.25, 1368.05, 1389.4, 1389.5, 1389.7, 1399.836, 1399.855, 1502, 1522, 1534, 1546.1, 1546.2, 1562, 1567.62, 1567.69, 1568.07, 1569.335, 1569.481, 1569.482, 1569.525, 1569.682, 1597.58, 1635.1, 1796.17, 1796.23, 1796.25, 1796.26, 1796.29, 1796.34, 1796.37, 1796.38, 1796.41, 1796.44, 1796.45, 4730.65, 16500, 25163.3, 25262, 25507.2, 33492.78, 34177, 39945, 42301.16, 50561, 51505, 101661, 101850, 101853, 101853.1, 101855, 101855.1, 102430, 111825, 115880, 119316, 120393, 121025, 123223, 124995, 125125, 125130, 125160, 125175, 125190, 125191, 130060, and 136000 of, to amend the heading of Chapter 2 (commencing with Section 104145) of Part 1 of Division 103 of, to amend the heading of Part 8 (commencing with Section 125700) of Division 106 of, to amend and renumber Sections 1339.9, 1531.2, 1568.0823, 4766.5, 13143.5, 25997, 25997.1, and 120155 of, to amend and renumber the heading of Chapter 3 (commencing with Section 16500) of Division 12.5 of, to amend and renumber the heading of Article 5.5 (commencing with Section 25159) of Chapter 6.5 of Division 20 of, to amend and renumber the heading of Article 4 (commencing with Section 128454) of Chapter 5 of Part 3 of Division 107 of, to repeal Sections 1317.5, 1367.20, 1371.36, 1371.37, 1371.38, 1371.39, 8650.5, 44246, 44525.5, 44525.7, and 116283 of, to repeal the heading of Article 2.6 (commencing with Section 1528) of Chapter 3 of Division 2 of, to repeal the heading of Article 3 (commencing with Section 11140) of Chapter 3 of Division 10 of, to repeal the heading of Article 2 (commencing with Section 11760.5) of Chapter 1 of Part 2 of Division 10.5 of, to repeal the heading of Article 6 (commencing with Section 11780) of Chapter 2 of Part 2 of Division 10.5 of, to repeal the heading of Article 8 (commencing with Section 25299.80) of Chapter 6.75 of Division 20 of, to repeal the heading of Article 12 (commencing with Section 25299.97) of Chapter 6.75 of Division 20 of, to repeal the heading of Article 5 (commencing with Section 101150) of Chapter 2 of Part 3 of Division 101 of, to repeal the heading of Chapter 3 (commencing with Section 101000) of Part 2 of Division 101 of, to repeal the heading of Chapter 4 (commencing with Section 101500) of Part 3 of Division 101 of, to repeal Division 10.10 (commencing with Section 11999.30) of, to repeal Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of, to

repeal Chapter 4 (commencing with Section 128200) of Part 3 of Division 107 of, and to repeal and amend Sections 25299.97 and 116612 of, the Health and Safety Code, to amend Sections 926.1, 926.2, 1215.8, 10112.26, 10112.35, 10123.196, 10192.18, 10753.06.5, and 12880.4 of, to amend and renumber Section 10123.21 of, and to repeal the heading of Chapter 17 (commencing with Section 12693.99) of Part 6.2 of Division 2 of, the Insurance Code, to amend Sections 1019, 1311.5, 1741.1, 5406, 6319, 6404.5, 6625, and 7873 of the Labor Code, to amend Sections 19.8, 132.5, 264.2, 295.2, 308, 602, 626.9, 814, 830.14, 1191.15, 2905, 3016, 3043, 3063.1, 3440, 4501, 4852.08, 4852.11, 4852.12, 4852.14, 4852.18, 13510.5, 18115, 18150, 18155, 18175, 27210, and 30625 of, to amend and renumber Sections 300.2 and 13980 of, to amend and renumber the heading of Chapter 5a (commencing with Section 852) of Title 3 of Part 2 of, to repeal Section 11105.5 of, and to repeal the heading of Title 6.7 (commencing with Section 13990) of Part 4 of, the Penal Code, to repeal the heading of Part 14 (commencing with Section 900) of Division 2 of, and to repeal the heading of Article 1 (commencing with Section 7200) of Chapter 3 of Part 1 of Division 7 of, the Probate Code, to amend Section 20427 of, and to repeal Section 10299 of, the Public Contract Code, to amend Sections 541.5, 4598.1, 4598.6, 4598.7, 5080.16, 14591.2, 21082.3, 30103, 42356, 42649.82, 42987, 42987.1, 42989.1, 44107, and 75220 of, to amend and renumber Sections 5096.955 and 21080.35 of, to repeal Section 6217.2 of, to repeal the heading of Chapter 6 (commencing with Section 12292) of Division 10.5 of, and to repeal Chapter 1 (commencing with Section 32600) of Division 22.8 of, the Public Resources Code, to amend Sections 765, 960, and 120260 of, to amend and renumber Section 5384.2 of, to repeal Sections 957, 125450, and 125500 of, and to repeal the heading of Article 5 (commencing with Section 125300) of Chapter 4 of Division 11.5 of, the Public Utilities Code, to amend Sections 441, 17053.34, 17053.46, 17053.73, 17053.74, 17058, 17207.7, 17207.8, 17276.21, 18805, 18807, 18808, 19183, 19191, 19255, 23151, 23610.5, 23622.7, 23626, 23634, 23732, 24347.6, 24347.10, and 24416.21 of, to amend and renumber Sections 17141, 17276.20, 24355.4, 24416.20, 32432, 40069, 45752, and 55262 of, to amend and renumber the heading of Part 5.5 (commencing with Section 11151) of Division 2 of, to repeal Sections 54, 196.91, 196.92, 6051.7, 17132.6, 17155, 17507.6, 17565, 18407, 24661.3, 24685.5, and 24989 of, to repeal the heading of Article 1.5 (commencing with Section 7063) of Chapter 8 of Part 1 of Division 2 of, to repeal the heading of Article

3 (commencing with Section 23571) of Chapter 3 of Part 11 of Division 2 of, to repeal the heading of Chapter 10.5 (commencing with Section 17940) of Part 10 of Division 2 of, and to repeal Chapter 3.5 (commencing with Section 7288.1) of Part 1.7 of Division 2 of, and to repeal Chapter 9.5 (commencing with Section 19778) of Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Section 2192 of, to amend and renumber Section 5132.1 of, to repeal the heading of Article 6.5 (commencing with Section 217) of Chapter 1 of Division 1 of, and to repeal the heading of Division 6 (commencing with Section 4000) of, the Streets and Highways Code, to amend Sections 125.4, 135, 605, 634.5, 710.6, 802, 803, 804, 1086, 1119, 1128.1, 1141.1, 1145, 1253.92, 1326.5, 1735.1, 3655, and 14013 of the Unemployment Insurance Code, to amend Sections 2480, 5156.7, 12801, 12801.9, 15210, 34500, 35401.7, and 40303.5 of, to repeal and amend Sections 612 and 2501 of, to repeal Sections 241, 241.1, 1803.5, 1808.7, and 42002.1 of, to repeal the heading of Article 1.7 (commencing with Section 23145) of Chapter 12 of Division 11 of, and to repeal Chapter 5 (commencing with Section 10900) of Division 4 of, the Vehicle Code, to amend Sections 9650, 10725.8, 10735.2, 20560.2, 37921, 37954, and 73502 of, to amend and renumber Sections 12938.2 and 21065 of, to repeal Sections 8612, 8613, 12585.12, 13272.1, and 21562.5 of, to repeal the heading of Article 5 (commencing with Section 36459) of Chapter 6 of Part 6 of Division 13 of, to repeal the heading of Article 1 (commencing with Section 42500) of Chapter 3 of Part 5 of Division 14 of, and to repeal Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of, to repeal Part 8 (commencing with Section 9650) of Division 5 of, the Water Code, to amend Sections 213.5, 258, 300, 319, 361.2, 391, 1767, 1984, 4142, 4144, 4512, 4520, 4520.5, 4521, 4540, 4541, 4648, 5840.2, 5892.5, 10104, 11253.5, 11325.24, 11363, 11403, 11460, 11461.3, 11477, 12300.4, 12300.41, 12301.1, 14005.271, 14011.10, 14021.6, 14022, 14029.91, 14105.18, 14124.24, 14132.277, 14148.67, 14154, 14165.50, 14166.22, 15151, 15862, 15885.5, 15894.5, 16120, 16500.5, 16524.7, 16524.8, 16524.9, 17603, 18901.2, and 18901.11 of, to amend the heading of Article 8 (commencing with Section 5869) of Chapter 1 of Part 4 of Division 5 of, to amend and renumber Sections 9757.5, 14005.75, 14011.2, 14132.99, 14148.9, 16513, and 16517 of, to amend and renumber the heading of Chapter 6 (commencing with Section 17500) of Part 5 of Division 9 of, to amend and renumber the heading of Chapter 4.5 (commencing with Section 18260) of Part 6 of Division 9 of, to add the

heading of Article 1 (commencing with Section 6331) to Chapter 2 of Part 2 of Division 6 of, to add the heading of Article 5.22 (commencing with Section 14167.35) to Chapter 7 of Part 3 of Division 9 of, to repeal Sections 14103, 14105.336, 14105.337, and 14132.90 of, to repeal the heading of Article 2.93 (commencing with Section 14091.3) of Chapter 7 of Part 3 of Division 9 of, to repeal the heading of Chapter 7 (commencing with Section 16997.1) of Part 4.7 of Division 9 of, and to repeal and amend Section 12104 of, the Welfare and Institutions Code, to amend Section 25 of Chapter 279 of the Statutes of 2005, to amend Section 1 of Chapter 15 of the Statutes of 2014, and to amend Section 1 of Chapter 243 of the Statutes of 2014, relating to the maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

AB 731, as introduced, Gallagher. 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 125.3 of the Business and Professions Code, as added by Section 1 of Chapter 1059 of the Statutes of 1992, is repealed.

~~125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.~~

~~(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.~~

~~(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.~~

~~(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).~~

~~(e) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.~~

~~(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.~~

~~(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.~~

~~(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.~~

~~(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.~~

~~(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.~~

~~(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.~~

SEC. 2. The heading of Article 3.5 (commencing with Section 316) of Chapter 4 of Division 1 of the Business and Professions Code is repealed.

~~Article 3.5. Consumer Advisory Council~~

SEC. 3. Section 1626.5 of the Business and Professions Code, as added by Section 6 of Chapter 655 of the Statutes of 1999, is amended and renumbered to read:

~~1626.5.~~

1626.1. In addition to the exemptions set forth in Section 1626, the operations by bona fide students of registered dental assisting, registered dental assisting in extended functions, and registered dental hygiene in extended functions in the clinical departments or the laboratory of an educational program or school approved by the board, including operations by unlicensed students while engaged in clinical externship programs that have been approved by an approved educational program or school, and that are under the general programmatic and academic supervision of that educational program or school, are exempt from the operation of this chapter.

SEC. 4. Section 1917.2 of the Business and Professions Code is repealed.

~~1917.2. (a) The committee shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:~~

~~(1) Satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee.~~

~~(2) Satisfactorily completes a national written dental hygiene examination approved by the committee.~~

~~(b) A dental student who is granted a registered dental hygienist license pursuant to this section may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.~~

~~(c) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygienist license issued pursuant to this subdivision is automatically revoked.~~

~~(d) The dental hygienist license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.~~

~~(e) Notwithstanding subdivision (d), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygienist license issued pursuant to this section shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the committee.~~

~~(f) The provisions of this section shall be reviewed pursuant to Division 1.2 (commencing with Section 473). However, the review shall be limited to the fiscal feasibility and impact on the committee.~~

~~(g) This section shall become inoperative as of January 1, 2014.~~

SEC. 5. Section 4115 of the Business and Professions Code is amended to read:

4115. (a) A pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary ~~tasks,~~ *tasks* only while assisting, and while under the direct supervision and control ~~of~~ *of*, a pharmacist. The pharmacist shall be responsible for the duties performed under his or her supervision by a technician.

(b) This section does not authorize the performance of any tasks specified in subdivision (a) by a pharmacy technician without a pharmacist on duty.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that employs a pharmacy technician shall do so in conformity with the regulations adopted by the board.

(e) ~~No~~ *A* person shall *not* act as a pharmacy technician without first being licensed by the board as a pharmacy technician.

(f) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing

the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of Corrections and Rehabilitation, and for a person receiving treatment in a facility operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. ~~No~~ *An* entity employing a pharmacist ~~may~~ *shall not* discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

(g) Notwithstanding subdivisions (a) and (b), the board shall by regulation establish conditions to permit the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section

512 of the Labor Code and the orders of the Industrial Welfare Commission without closing the pharmacy. During these temporary absences, a pharmacy technician may, at the discretion of the pharmacist, remain in the pharmacy but may only perform nondiscretionary tasks. The pharmacist shall be responsible for a pharmacy technician and shall review any task performed by a pharmacy technician during the pharmacist's temporary absence. ~~Nothing in this~~ *This* subdivision shall *not* be construed to authorize a pharmacist to supervise pharmacy technicians in greater ratios than those described in subdivision (f).

(h) The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician supervised by that pharmacist.

(i) In a health care facility licensed under subdivision (a) of Section 1250 of the Health and Safety Code, a pharmacy technician's duties may include any of the following:

(1) Packaging emergency supplies for use in the health care facility and the hospital's emergency medical system or as authorized under Section 4119.

(2) Sealing emergency containers for use in the health care facility.

(3) Performing monthly checks of the drug supplies stored throughout the health care facility. Irregularities shall be reported within 24 hours to the pharmacist in charge and the director or chief executive officer of the health care facility in accordance with the health care facility's policies and procedures.

SEC. 6. Section 4120 of the Business and Professions Code is amended to read:

4120. (a) A nonresident pharmacy shall not sell or distribute dangerous drugs or dangerous devices in this state through any person or ~~media~~ *media,* other than a wholesaler or third-party logistics provider who has obtained a license pursuant to this chapter or through a selling or distribution outlet that is licensed as a wholesaler or third-party logistics provider pursuant to this ~~chapter~~ *chapter,* without registering as a nonresident pharmacy.

(b) Applications for a nonresident pharmacy registration shall be made on a form furnished by the board. The board may require any information ~~as~~ the board deems reasonably necessary to carry out the purposes of this section.

(c) The Legislature, by enacting this section, does not intend a license issued to any nonresident pharmacy pursuant to this section

to change or affect the tax liability imposed by Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code on any nonresident pharmacy.

(d) The Legislature, by enacting this section, does not intend a license issued to any nonresident pharmacy pursuant to this section to serve as any evidence that the nonresident pharmacy is doing business within this state.

SEC. 7. Section 4201 of the Business and Professions Code is amended to read:

4201. (a) Each application to conduct a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug ~~retailer,~~ *retailer* shall be made on a form furnished by the ~~board,~~ *board* and shall state the name, address, usual occupation, and professional qualifications, if any, of the applicant. If the applicant is other than a natural person, the application shall state the information as to each person beneficially interested therein.

(b) As used in this section, and subject to subdivision (c), the term "person beneficially interested" means and includes:

(1) If the applicant is a partnership or other unincorporated association, each partner or member.

(2) If the applicant is a corporation, each of its officers, directors, and stockholders, provided that ~~no~~ *a* natural person shall *not* be deemed to be beneficially interested in a nonprofit corporation.

(3) If the applicant is a limited liability company, each officer, manager, or member.

(c) If the applicant is a partnership or other unincorporated association, a limited liability company, or a corporation, and the number of partners, members, or stockholders, as the case may be, exceeds five, the application shall so state, and shall further state the information required by subdivision (a) as to each of the five partners, members, or stockholders who own the five largest interests in the applicant entity. Upon request by the executive officer, the applicant shall furnish the board with the information required by subdivision (a) as to partners, members, or stockholders not named in the application, or shall refer the board to an appropriate source of that information.

(d) The application shall contain a statement to the effect that the applicant has not been convicted of a felony and has not violated any of the provisions of this chapter. If the applicant cannot make this statement, the application shall contain a

statement of the violation, if any, or reasons which will prevent the applicant from being able to comply with the requirements with respect to the statement.

(e) Upon the approval of the application by the board and payment of the fee required by this chapter for each pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer, the executive officer of the board shall issue a license to conduct a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug ~~retailer,~~ *retailer* if all of the provisions of this chapter have been complied with.

(f) Notwithstanding any other law, the pharmacy license shall authorize the holder to conduct a pharmacy. The license shall be renewed annually and shall not be transferable.

(g) Notwithstanding any other law, the wholesaler license shall authorize the holder to wholesale dangerous drugs and dangerous devices. The license shall be renewed annually and shall not be transferable.

(h) Notwithstanding any other law, the third-party logistics provider license shall authorize the holder to provide or coordinate warehousing, distribution, or other similar services of dangerous drugs and dangerous devices. The license shall be renewed annually and shall not be transferable.

(i) Notwithstanding any other law, the veterinary food-animal drug retailer license shall authorize the holder to conduct a veterinary food-animal drug retailer and to sell and dispense veterinary food-animal drugs as defined in Section 4042.

(j) For licenses referred to in subdivisions (f), (g), (h), and (i), any change in the proposed beneficial ownership interest shall be reported to the board within 30 days thereafter upon a form to be furnished by the board.

SEC. 8. Section 4945 of the Business and Professions Code, as amended by Section 15 of Chapter 983 of the Statutes of 1991, is repealed.

~~4945. (a) The committee shall establish standards for continuing education for acupuncturists.~~

~~(b) The committee shall require each acupuncturist to complete 15 hours of continuing education every year as a condition for renewal of his or her certificate. A provider of continuing education shall apply to the committee for approval to offer continuing education courses for credit toward this requirement on a form~~

~~developed by the committee, shall pay a fee covering the cost of approval and for the monitoring of the provider by the committee and shall set forth the following information on the application:~~

~~(1) Course content.~~

~~(2) Test criteria.~~

~~(3) Hours of continuing education credit requested for the course.~~

~~(4) Experience and training of instructors.~~

~~(5) Other information as required by the committee.~~

~~(6) That interpreters or bilingual instruction will be made available, when necessary.~~

~~(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.~~

~~(d) Providers of continuing education shall be monitored by the committee as determined by the committee.~~

~~(e) If the committee determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the committee.~~

~~(f) This section shall remain in effect only until January 1, 1996, and shall have no force or effect on or after that date, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.~~

SEC. 9. Section 5082.5 of the Business and Professions Code, as added by Section 10 of Chapter 704 of the Statutes of 2001, is repealed.

~~5082.5. The board may give credit to a candidate who has passed all or part of the examination in another state or territory, if the members of the board determine that the standards under which the examination was held are as high as the standards established for examination in this chapter.~~

SEC. 10. Section 5095 of the Business and Professions Code, as added by Section 20 of Chapter 704 of the Statutes of 2001, is repealed.

~~5095. (a) To be authorized to sign reports on attest engagements, a licensee shall complete a minimum of 500 hours of experience, satisfactory to the board, in attest services.~~

~~(b) To be qualifying under this section, attest experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy and provide attest services, and this experience shall be verified. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy and perform attest services, and this experience shall be verified. An applicant may be required to present work papers or other evidence substantiating that the applicant has met the requirements of this section and applicable regulations.~~

~~(c) An individual who qualified for licensure by meeting the requirements of Section 5083 shall be deemed to have satisfied the requirements of this section.~~

~~(d) The board shall adopt regulations to implement this section, including, but not limited to, a procedure for applicants under Section 5092 or Section 5093 to qualify under this section.~~

SEC. 11. Section 7000.6 of the Business and Professions Code, as added by Section 27 of Chapter 107 of the Statutes of 2002, is repealed.

~~7000.6. Protection of the public shall be the highest priority for the Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

SEC. 12. Section 7588.2 of the Business and Professions Code, as added by Section 3 of Chapter 689 of the Statutes of 2002, is amended and renumbered to read:

~~7588.2.~~

7588.6. (a) A peace officer of this state or a political subdivision thereof who engages in off-duty employment solely

and exclusively as a security guard or security officer, and who is required to be registered as a security guard or security officer pursuant to this chapter, shall only be subject to the fees required by subdivision (h) of Section 7588.

(b) A peace officer shall also be subject to the fees required by paragraphs (1) and (2) of subdivision (i) of Section 7588 if the peace officer carries or uses a firearm as part of the off-duty employment and has not received approval of his or her primary employer, as defined in paragraph (2) of subdivision (i) of Section 7583.9, to carry a firearm while working as a security guard or security officer, and has not submitted verification of that approval to the bureau pursuant to subdivision (i) of Section 7583.9.

SEC. 13. Section 7590.2 of the Business and Professions Code is amended to read:

7590.2. (a) An "alarm company operator" means a person who, for any consideration whatsoever, engages in business or accepts employment to install, maintain, alter, sell on premises, monitor, or service alarm systems or who responds to alarm systems except for any alarm agent. "Alarm company operator," includes any entity that is retained by a licensed alarm company operator, a customer, or any other person or entity, to monitor one or more alarm systems, whether or not the entity performs any other duties within the definition of an alarm company operator. The provisions of this chapter, to the extent that they can be made applicable, shall be applicable to the duties and functions performed in monitoring alarm systems.

(b) A person licensed as an alarm company operator ~~may~~ *shall* not conduct any investigation or investigations except those that are incidental to personal injury, or the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he or she has been hired or engaged to protect.

(c) A person who is licensed, certified, or registered pursuant to this chapter is exempt from locksmithing requirements, pursuant to subdivision (e) of Section 6980.12, if the duties performed that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined in subdivision (n) of Section 7590.1, and limited to work on electronic locks or

access control devices that are controlled by an alarm system control device, including the removal of existing hardware.

SEC. 14. Section 8538 of the Business and Professions Code is amended to read:

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be ~~used,~~ *used* and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the ~~California~~ Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions—the County Health Department (telephone number); for Application Information—the County Agricultural Commissioner (telephone number), and for Regulatory Information—the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class or electronic mail, if an electronic ~~mailing~~ *mail* address has been provided.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor ~~and is~~ punishable as set forth in Section 8553.

SEC. 15. Section 12518 of the Business and Professions Code is amended to read:

12518. A water submeter submitted to a sealer by an owner, user, or operator for inspection and testing before its initial installation that is found to be incorrect, as defined in *subdivision (d) of* Section 12500, shall be marked with the ~~words,~~ *words* "Out of Order," in accordance with Section 12506, and shall be returned to a service agent only if both of the following conditions are met:

(a) The water submeter has no signs of intentional tampering by which to facilitate fraud.

(b) The water submeter ~~shall~~ *is* not ~~be~~ placed into service in California.

SEC. 16. Section 17530.6 of the Business and Professions Code is repealed.

~~17530.6. (a) Any person, including an individual, firm, corporation, association, partnership, or joint venture, or any employee or agent thereof, shall dispose of any of the information described in Section 17530.5 in a manner including, but not limited to, burning, shredding, electronic deleting, or other appropriate means, so that the identity of the taxpayer may not be determined from the disposed information alone or in combination with other publicly available information. A violation of this section constitutes a misdemeanor.~~

~~(b) This section shall not become operative if Assembly Bill 2246 of the 1999–2000 Regular Session is enacted and becomes effective on or before January 1, 2001.~~

SEC. 17. Section 17550.42 of the Business and Professions Code, as added by Section 11 of Chapter 196 of the Statutes of 2003, is amended and renumbered to read:

~~17550.42.~~

17550.42.5. (a) Within 30 days of the close of the fiscal year or other reasonable period established by the board of directors, the Travel Consumer Restitution Corporation shall make publicly available a statement of the following information concerning the most recently concluded fiscal year:

(1) The number of claims and approximate dollar amount of the claims received.

(2) The total number of claims and total dollar amount of claims paid.

(3) The approximate number and dollar amount of claims denied or abandoned.

(4) The dollar balance in the restitution fund.

(5) The amount of assessments received from participants and the operating and administrative costs and expenses of the corporation.

(6) The number of new participants and the amount of assessments received from them.

(b) The Travel Consumer Restitution Corporation shall make publicly available within 15 days of the board of directors' approval, or other reasonable period established by the board of directors, the following information:

(1) The approved minutes of meetings of the board of directors.

(2) The approved estimated annual operational budget projecting the costs of operations and administration for the succeeding fiscal year, excluding the amount to be paid for claims.

(3) The approved bylaws, as amended, of the Travel Consumer Restitution Corporation.

(c) Information may be made publicly available as required by this section by disseminating the information on an Internet Web site or providing the information by electronic mail to any person who has requested the information and provided a valid electronic mail address.

SEC. 18. Section 18897.8 of the Business and Professions Code, as added by Section 2 of Chapter 857 of the Statutes of 1996, is repealed.

~~18897.8. (a) Any professional athlete, or any student athlete, or any elementary or secondary school, college, university, or other educational institution, or any league, conference, association, or federation of the preceding educational institutions, or any other person may bring a civil action for recovery of damages from an athlete agent, if that professional athlete, that student athlete, that institution, any member of that league, conference, association, or federation, or that other person is adversely affected by the acts of the athlete agent or of the athlete agent's representative or employee in violation of this chapter. A student athlete is presumed to be adversely affected by the acts of an athlete agent, representative or employee in violation of this chapter if, because of those acts, the student athlete is suspended or disqualified from participation in one or more interscholastic or intercollegiate sports events by or pursuant to the rules of a state or national federation or association for the promotion and regulation of interscholastic or intercollegiate sports, or suffers financial damage, or suffers both suspension or disqualification and financial damage. An educational institution is presumed to be adversely affected by the acts of an athlete agent or of an athlete agent's representative or employee in violation of this chapter if, because of those acts, the educational institution, or one or more student athletes admitted to or enrolled in the educational institution, is suspended or disqualified from participation in one or more interscholastic or intercollegiate athletic events by or pursuant to the rules of a state or national federation or association for the promotion and regulation of interscholastic or intercollegiate sports events by or~~

~~pursuant to the rules of a state or national federation or association for the promotion and regulation of interscholastic or intercollegiate sports, or suffers financial damage, or suffers both suspension or disqualification and financial damage.~~

~~(b) A plaintiff that prevails in a civil action brought under this section may recover actual damages, or fifty thousand dollars ($50,000), whichever is higher; punitive damages; court costs; and reasonable attorney's fees. An athlete agent found liable under this section is also subject to forfeiture of any right of repayment for anything of benefit or value provided to a student athlete, and shall refund any consideration paid to that athlete agent by or on behalf of the student athlete.~~

~~(c) It is the intent of the Legislature in enacting this section to encourage enforcement of this chapter through private civil actions.~~

SEC. 19. Section 19556 of the Business and Professions Code is amended to read:

19556. (a) The distribution shall be made by the distributing agent to beneficiaries qualified under this article. For purposes of this article, a beneficiary shall be all of the following:

(1) A nonprofit corporation or organization entitled by law to receive a distribution made by a distributing agent.

(2) Exempt or entitled to an exemption from taxes measured by income imposed by this state and the United States.

(3) Engaged in charitable, benevolent, civic, religious, educational, or veterans' work similar to that of agencies recognized by an organized community chest in the State of California, except that the funds so distributed may be used by the beneficiary for capital expenditures.

(4) Approved by the board.

(b) At least 30 percent of the distribution shall be made to charities associated with the horse racing industry. In addition to this 30 percent of the distribution, another 5 percent of the distribution shall be paid to a welfare fund described in subdivision (b) of Section 19641 and another 5 percent of the distribution shall be paid to a nonprofit corporation, the primary purpose of which is to assist horsemen and backstretch personnel who are being affected adversely as a result of alcohol or substance abuse. ~~No~~ *A* beneficiary otherwise qualified under this section to receive charity day net proceeds shall *not* be excluded on the basis that the beneficiary provides charitable benefits to persons connected with

the care, training, and running of racehorses, except that *this* type of beneficiary shall make an accounting to the board within one calendar year of the date of receipt of any distribution.

(c) (1) In addition to the distribution pursuant to subdivision (b), a separate 20 percent of the distribution shall be made to a nonprofit corporation or trust, the directors or trustees of which shall serve without compensation except for reimbursement for reasonable expenses, and that has as its sole purpose the accumulation of endowment funds, the income ~~on~~ *of* which shall be distributed to qualified disabled jockeys.

(2) To receive a distribution under this subdivision, a nonprofit corporation or trust ~~must~~ *shall* establish objective qualifications for disabled ~~jockeys,~~ *jockeys* and provide an annual accounting and report to the board on its activities indicating compliance with the requirements of this subdivision.

(3) The nonprofit corporation or trust shall, in an amount proportional to the contributions received pursuant to this subdivision as a percentage of the total contributions received by the *nonprofit* corporation or trust, give preference in assisting qualified disabled jockeys ~~to the following:~~ *who meet either of the following criteria:*

(A) Jockeys who were disabled while participating in the racing or training of horses at licensed racing associations or approved training facilities in California.

(B) Jockeys licensed by the board who were disabled while participating in the racing or training of horses in a state other than California.

(d) When the nonprofit corporation or trust described in subdivision (c) has received distributions in an amount equal to two million dollars ($2,000,000), the distribution mandated by subdivision (c) shall cease.

SEC. 20. Section 19599 of the Business and Professions Code is amended to read:

19599. An association or fair may offer any form of parimutuel wagering, as defined by regulations adopted by the board, or as defined by Chapter 4, Pari-Mutuel Wagering, Model Rules of Racing, as published by the Association of Racing Commissioners International. The board may prohibit any form of parimutuel wagering if it determines that the proposed wagering would compromise the honesty and integrity of racing in the state. Each

racing association or fair shall include the types of ~~conventional exotic~~ *conventional, exotic,* and other wagering it proposes to offer on its application to conduct a horse racing meeting.

SEC. 21. Section 19605.7 of the Business and Professions Code is amended to read:

19605.7. The total percentage deducted from wagers at satellite wagering facilities in the northern zone shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(a) (1) For thoroughbred meetings, 1.3 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do ~~business,~~ *business* as a franchise, ~~and this commission is~~ *but* not for the use of any real property, 0.54 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), ~~(c)~~ *(c),* and (d) of Section 19617.2, 0.033 percent shall be distributed to the Center for Equine Health, and 0.067 percent shall be distributed to the California Animal Health and Food Safety Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the Center for Equine Health shall supplement, and not supplant, other funding sources.

(2) (A) In addition to the distributions specified in paragraph (1), for thoroughbred meetings, an amount not to exceed 4 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to an organization described in Section 19608.2 with the mutual consent of the racing association, the organization representing the horsemen participating in the meeting, and the board from January 1, 2010, until December 31, 2016. However, the amount shall *not* be ~~no~~ less than that specified in subparagraph (B), and any amount greater than the amount specified in subparagraph (B) shall be approved by the board for no more than 12 months at a time, and only upon a determination by the board that the greater amount is in the economic interest of thoroughbred racing.

(B) Commencing January 1, 2017, an amount not to exceed the amount of actual operating expenses, as determined by the board, or 2.5 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers, whichever is less, shall be distributed to an organization described in Section 19608.2.

(C) A request to the board for a distribution pursuant to subparagraph (A) shall be accompanied by a report detailing all receipts and expenditures over the two prior fiscal years of the funds affected by the request.

(D) The racing association whose request pursuant to subparagraph (A) has been approved by the board shall provide subsequent quarterly reports of receipts and expenditures of the affected funds if requested by the board.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 0.4 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the fair association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do ~~business,~~ *business* as a franchise, ~~and this commission is~~ *but* not for the use of any real property, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, 0.4 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7; in the case of Appaloosas, 0.4 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9; in the case of Arabians, 0.4 percent shall be held by the association to be deposited with the official registering agency pursuant to Section 19617.8, and shall thereafter be distributed in accordance with Section 19617.8; in the case of standardbreds, 0.4 percent shall be distributed for the California

Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, 0.48 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2; 0.033 percent shall be distributed to the Center for Equine Health; and 0.067 percent shall be distributed to the California Animal Health and Food Safety Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the Center for Equine Health shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivisions (a) and (b), for mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. For harness meetings, 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, and 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting. If, with respect to harness meetings, there are funds unexpended from this 1 percent, these funds may be expended for other purposes with the consent of the horsemen and the racing association to benefit the horsemen, or the racing association, or both, pursuant to their agreement. For quarter horse meetings, 0.5 percent of the total amount handled by each satellite wagering facility on races run in California shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, 0.5 percent of the total amount handled by each satellite wagering facility on out-of-state and out-of-country imported races shall be distributed to the official quarter horse registering agency for the purposes of Section 19617.75, and 0.5 percent of the total amount handled by each satellite wagering facility on all races shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting.

(d) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, 0.33 percent of the total amount handled by each satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(e) Notwithstanding any other law, a racing association is responsible for the payment of the state license fee as required by this section.

SEC. 22. Section 25350 of the Business and Professions Code is amended to read:

25350. The department may seize the following alcoholic beverages:

(a) Alcoholic beverages manufactured or produced in this State by any person other than licensed manufacturer or wine grower, regardless of where found.

(b) Beer and wine upon the sale of which the excise tax imposed by Part 14 *(commencing with Section 32001)* of Division 2 of the Revenue and Taxation Code has not been paid, regardless of where found.

(c) Distilled spirits except (1) distilled spirits located upon premises for which licenses authorizing the sale of the distilled spirits have been issued; (2) distilled spirits consigned to and in the course of transportation to a licensee holding licenses authorizing the sale of the distilled spirits or for delivery without this State; (3) distilled spirits upon the sale of which the excise tax imposed by Part 14 *(commencing with Section 32001)* of Division 2 of the Revenue and Taxation Code has been paid; (4) alcohol or distilled spirits in the possession of a person who has lawfully purchased it for use in the trades, professions, or industries and not for beverage use.

(d) Any alcoholic beverage possessed, kept, stored, or owned with the intent to sell it without a license in violation of this division.

(e) Notwithstanding any other provision of this section, any alcoholic beverage acquired, exchanged, purchased, sold, delivered, or possessed in violation of Sections 23104.2, 23104.3, 23394, 23402~~, or 24879, or Chapter 10 (commencing with Section 24749), 11 (commencing with Section 24850),~~ or *Chapter* 12 (commencing with Section ~~25000) of this division,~~ *25000),* except that seizures under this subdivision shall be limited to the actual package or

case of alcoholic beverage acquired, exchanged, purchased, sold, delivered, or possessed in violation of the foregoing provisions. Any seizure under this subdivision shall not exceed one hundred dollars ($100) of alcoholic beverages at retail price.

SEC. 23. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower's license, a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County or Alameda County.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located in San Bernardino County.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(F) An outdoor stadium and a fully enclosed arena with fixed seating capacities in excess of 10,000 seats located in Fresno County.

(G) An athletic and entertainment complex of not less than 50 acres that includes within its boundaries an outdoor stadium with a fixed seating capacity of at least 8,000 seats and a second outdoor stadium with a fixed seating capacity of at least 3,500 seats located within Riverside County.

(H) An outdoor stadium with a fixed seating capacity in excess of 1,500 seats located in Tulare County.

(I) A motorsports entertainment complex of not less than 50 acres that includes within its boundaries an outdoor speedway with a fixed seating capacity of at least 50,000 seats, located within San Bernardino County.

(J) An exposition park, owned or operated by a bona fide nonprofit organization, of not less than 400 acres with facilities including a grandstand with a seating capacity of at least 8,000 people, at least one exhibition hall greater than 100,000 square feet, and at least four exhibition halls, each greater than 30,000 square feet, located in the City of Pomona or the City of La Verne in Los Angeles County.

(K) An outdoor soccer stadium with a fixed seating capacity of at least 25,000 seats, an outdoor tennis stadium with a fixed capacity of at least 7,000 seats, an outdoor track and field facility with a fixed seating capacity of at least 7,000 seats, and an indoor velodrome with a fixed seating capacity of at least 2,000 seats, all located within a sports and athletic complex built before January 1, 2005, within the City of Carson in Los Angeles County.

(L) An outdoor professional sports facility with a fixed seating capacity of at least 4,200 seats located within San Joaquin County.

(M) A fully enclosed arena with a fixed seating capacity in excess of 13,000 seats in the City of Inglewood.

(N) (i) An outdoor stadium with a fixed seating capacity of at least 68,000 seats located in the City of Santa Clara.

(ii) A beer manufacturer, the holder of a winegrower's license, a distilled spirits rectifier, a distilled spirits manufacturer, or distilled spirits manufacturer's agent may purchase advertising space and time from, or on behalf of, a major tenant of an outdoor stadium described in clause (i), provided the major tenant does not hold a retail license, and the advertising may include the placement of advertising in an on-sale licensed premises operated at the outdoor stadium.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the exposition park, stadium, or arena owned by the on-sale licensee. With respect to an exposition park as described in subparagraph (J) of paragraph (1) that includes at least one hotel, the advertising space or time shall not be displayed on or in any hotel located in the exposition

park, or purchased in connection with the operation of any hotel located in the exposition park.

(4) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits rectifier, the distilled spirits ~~manufacturer~~ *manufacturer,* or the distilled spirits manufacturer's agent that purchased the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and the on-sale licensee, or with respect to clause (ii) of subparagraph (N) of paragraph (1) of subdivision (a), the major tenant of the outdoor stadium.

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

(d) Any on-sale retail licensee, as described in subdivision (a), who, directly or indirectly, solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, a holder of a winegrower's license, a distilled spirits rectifier, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment

in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) For the purposes of this section, "beer manufacturer" includes any holder of a beer manufacturer's license, any holder of an out-of-state beer manufacturer's certificate, or any holder of a beer and wine importer's general license.

SEC. 24. 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~~ *another person an* alcoholic beverage in or on ~~any~~ *a* 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~~ *a* person to acquire, possess, or use ~~any~~ *an* alcoholic beverage in or on ~~any~~ *a* public schoolhouse, or on ~~any~~ *the* 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 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 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 or a city 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 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~~ *does* 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 during the special event. As used in this paragraph, "special event" means events that are held with the permission of the governing board of the community college district that are festivals, shows,

private parties, concerts, theatrical productions, and other events held on the premises of the public community college 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 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.

(17) The alcoholic beverages are acquired, possessed, used, or consumed pursuant to a license or permit obtained under this division for special events held at facilities owned and operated by an educational agency, a county office of education, superintendent of schools, school district, or community college district at a time when pupils are not on the grounds. As used in this paragraph, "facilities" ~~includes,~~ *include,* but are not limited to, office complexes, conference centers, or retreat facilities.

(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~~ *that* is accorded by Article 2 (commencing with Section 82537) of Chapter 8 of Part 49 of Division 7 of Title 3 the Education Code.

SEC. 25. Section 56.36 of the Civil Code is amended to read:

56.36. (a) ~~Any~~ *A* violation of the provisions of this part that results in economic loss or personal injury to a patient is punishable as a misdemeanor.

(b) In addition to any other remedies available at law, ~~any~~ *an* individual may bring an action against ~~any~~ *a* person or entity who has negligently released confidential information or records concerning him or her in violation of this part, for either or both of the following:

(1) Except as provided in subdivision (e), nominal damages of one thousand dollars ($1,000). In order to recover under this paragraph, it ~~shall~~ *is* not ~~be~~ necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the patient.

(c) (1) In addition, ~~any~~ *a* person or entity that negligently discloses medical information in violation of the provisions of this part shall also be liable, irrespective of the amount of damages suffered by the patient as a result of that violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation.

(2) (A) ~~Any~~ *A* person or entity, other than a licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation.

(B) ~~Any~~ *A* licensed health care ~~professional,~~ *professional* who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable on a first ~~violation,~~ *violation* for an administrative fine or civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation, ~~or~~ on a second violation for an administrative fine or civil penalty not to exceed ten thousand dollars ($10,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation. ~~Nothing in this~~ *This* subdivision shall *not* be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for ~~any~~ *a* violation of this part.

(3) (A) ~~Any~~ *A* person or entity, other than a licensed health care professional, who knowingly or willfully obtains or uses medical information in violation of this part for the purpose of financial gain shall be liable for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation.

(B) ~~Any~~ *A* licensed health care ~~professional,~~ *professional* who knowingly and willfully obtains, discloses, or uses medical information in violation of this part for financial gain shall be liable on a first ~~violation,~~ *violation* for an administrative fine or civil penalty not to exceed five thousand dollars ($5,000) per violation, ~~or~~ on a second violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation,

or on a third and subsequent violation for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation. ~~Nothing in this~~ *This* subdivision shall *not* be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(4) ~~Nothing in this~~ *This* subdivision shall *not* be construed as authorizing an administrative fine or civil penalty under both paragraphs (2) and (3) for the same violation.

(5) ~~Any~~ *A* person or entity who is not permitted to receive medical information pursuant to this part and who knowingly and willfully obtains, discloses, or uses medical information without written authorization from the patient shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation.

(d) In assessing the amount of an administrative fine or civil penalty pursuant to subdivision (c), the State Department of Public Health, licensing agency, or certifying board or court shall consider any ~~one or more~~ of the relevant circumstances presented by any of the parties to the case including, but not limited to, the following:

(1) Whether the defendant has made a reasonable, good faith attempt to comply with this part.

(2) The nature and seriousness of the misconduct.

(3) The harm to the patient, enrollee, or subscriber.

(4) The number of violations.

(5) The persistence of the misconduct.

(6) The length of time over which the misconduct occurred.

(7) The willfulness of the defendant's misconduct.

(8) The defendant's assets, liabilities, and net worth.

(e) (1) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2013, in which the defendant establishes the affirmative defense in paragraph (2), the court shall award any actual damages and reasonable attorney's fees and costs, but ~~may~~ *shall* not award nominal damages for a violation of this part.

(2) The defendant is entitled to an affirmative defense if all of the following are established, subject to the equitable considerations in paragraph (3):

(A) The defendant is a covered entity or business associate, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, in effect as of January 1, 2012.

(B) The defendant has complied with any obligations to notify all persons entitled to receive notice regarding the release of the information or records.

(C) The release of confidential information or records was solely to another covered entity or business associate.

(D) The release of confidential information or records was not an incident of medical identity theft. For purposes of this subparagraph, "medical identity theft" means the use of an individual's personal information, as defined in Section 1798.80, without the individual's knowledge or consent, to obtain medical goods or services, or to submit false claims for medical services.

(E) The defendant took appropriate preventive actions to protect the confidential information or records against release consistent with the defendant's obligations under this part or other applicable state law and the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) (HIPAA) and all HIPAA Administrative Simplification Regulations in effect on January 1, 2012, contained in Parts 160, 162, and 164 of Title 45 of the Code of Federal ~~Regulations~~ *Regulations,* and Part 2 of Title 42 of the Code of Federal Regulations, including, but not limited ~~to:~~ *to, all of the following:*

(i) Developing and implementing security policies and procedures.

(ii) Designating a security official who is responsible for developing and implementing its security policies and procedures, including educating and training the workforce.

(iii) Encrypting the information or records, and protecting against the release or use of the encryption key and passwords, or transmitting the information or records in a manner designed to provide equal or greater protections against improper disclosures.

(F) The defendant took reasonable and appropriate corrective action after the release of the confidential information or records, and the covered entity or business associate that received the confidential information or records destroyed or returned the confidential information or records in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore

the reasonable integrity of the data system. A court may consider this subparagraph to be established if the defendant shows in detail that the covered entity or business associate could not destroy or return the confidential information or records because of the technology utilized.

(G) The covered entity or business associate that received the confidential information or records, or any of its agents, independent contractors, or employees, regardless of the scope of the employee's employment, did not retain, use, or release the information or records.

(H) After the release of the confidential information or records, the defendant took reasonable and appropriate action to prevent a future similar release of confidential information or records.

(I) The defendant has not previously established an affirmative defense pursuant to this subdivision, or the court determines, in its discretion, that application of the affirmative defense is compelling and consistent with the purposes of this section to promote reasonable conduct in light of all the facts.

(3) (A) In determining whether the affirmative defense may be established pursuant to paragraph (2), the court shall consider the equity of the situation, including, but not limited to, (i) whether the defendant has previously violated this part, regardless of whether an action has previously been brought, and (ii) the nature of the prior violation.

(B) To the extent the court allows discovery to determine whether there has been any other violation of this part that the court will consider in balancing the equities, the defendant shall not provide any medical information, as defined in Section 56.05. The court, in its discretion, may enter a protective order prohibiting the further use of any personal information, as defined in Section 1798.80, about the individual whose medical information may have been disclosed in a prior violation.

(4) In an action under this subdivision in which the defendant establishes the affirmative defense pursuant to paragraph (2), a plaintiff shall be entitled to recover reasonable attorney's fees and costs without regard to an award of actual or nominal damages or the imposition of administrative fines or civil penalties.

(5) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2013, in which the defendant establishes the affirmative defense pursuant to paragraph (2), a defendant shall

not be liable for more than one judgment on the merits under this subdivision for releases of confidential information or records arising out of the same event, transaction, or occurrence.

(f) (1) The civil penalty pursuant to subdivision (c) shall be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by any of the following:

(A) The Attorney General.

(B) ~~Any~~ *A* district attorney.

(C) ~~Any~~ *A* county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance.

(D) ~~Any~~ *A* city attorney of a city.

(E) ~~Any~~ *A* city attorney of a city and county having a population in excess of 750,000, with the consent of the district attorney.

(F) A city prosecutor in ~~any~~ *a* city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in ~~any~~ *a* city and county.

(G) The State Public Health Officer, or his or her designee, may recommend that ~~any~~ *a* person described in subparagraphs (A) to (F), inclusive, bring a civil action under this section.

(2) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in paragraph (3), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

(3) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered.

(4) ~~Nothing in this~~ *This* section shall *not* be construed as authorizing both an administrative fine and civil penalty for the same violation.

(5) Imposition of a fine or penalty provided for in this section shall not preclude imposition of ~~any~~ other sanctions or remedies authorized by law.

(6) Administrative fines or penalties issued pursuant to Section 1280.15 of the Health and Safety Code shall offset any other administrative fine or civil penalty imposed under this section for the same violation.

(g) For purposes of this section, "knowing" and "willful" shall have the same meanings as in Section 7 of the Penal Code.

(h) ~~No~~ *A* person who discloses protected medical information in accordance with the provisions of this part ~~shall be~~ *is not* subject to the penalty provisions of this part.

SEC. 26. Section 1936.5 of the Civil Code, as added by Section 1 of Chapter 406 of the Statutes of 2012, is repealed.

~~1936.5. A "rental company" as defined in paragraph (1) of subdivision (a) of Section 1936 is not subject to the requirements of Section 14608 of the Vehicle Code if the rental is subject to the terms of a membership agreement that allows the renter to gain physical access to a car without a key through use of a code, use of a key card, or by other means that allow the car to be accessed at a remote location, or at a business location of the rental company outside of that location's regular hours of operation.~~

SEC. 27. Section 2923.55 of the Civil Code, as amended by Section 14 of Chapter 76 of the Statutes of 2013, is repealed.

~~2923.55. (a) A mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default pursuant to Section 2924 until all of the following:~~

~~(1) The mortgage servicer has satisfied the requirements of paragraph (1) of subdivision (b).~~

~~(2) Either 30 days after initial contact is made as required by paragraph (2) of subdivision (b) or 30 days after satisfying the due diligence requirements as described in subdivision (f).~~

~~(3) The mortgage servicer complies with subdivision (c) of Section 2923.6, if the borrower has provided a complete application as defined in subdivision (h) of Section 2923.6.~~

~~(b) (1) As specified in subdivision (a), a mortgage servicer shall send the following information in writing to the borrower:~~

~~(A) A statement that if the borrower is a servicemember or a dependent of a servicemember, he or she may be entitled to certain protections under the federal Servicemembers Civil Relief Act (50~~

~~U.S.C. Appen. Sec. 501 et seq.) regarding the servicemember's interest rate and the risk of foreclosure, and counseling for covered servicemembers that is available at agencies such as Military OneSource and Armed Forces Legal Assistance.~~

~~(B) A statement that the borrower may request the following:~~

~~(i) A copy of the borrower's promissory note or other evidence of indebtedness.~~

~~(ii) A copy of the borrower's deed of trust or mortgage.~~

~~(iii) A copy of any assignment, if applicable, of the borrower's mortgage or deed of trust required to demonstrate the right of the mortgage servicer to foreclose.~~

~~(iv) A copy of the borrower's payment history since the borrower was last less than 60 days past due.~~

~~(2) A mortgage servicer shall contact the borrower in person or by telephone in order to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. During the initial contact, the mortgage servicer shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the mortgage servicer shall schedule the meeting to occur within 14 days. The assessment of the borrower's financial situation and discussion of options may occur during the first contact, or at the subsequent meeting scheduled for that purpose. In either case, the borrower shall be provided the toll-free telephone number made available by the United States Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency. Any meeting may occur telephonically.~~

~~(c) A notice of default recorded pursuant to Section 2924 shall include a declaration that the mortgage servicer has contacted the borrower, has tried with due diligence to contact the borrower as required by this section, or that no contact was required because the individual did not meet the definition of "borrower" pursuant to subdivision (c) of Section 2920.5.~~

~~(d) A mortgage servicer's loss mitigation personnel may participate by telephone during any contact required by this section.~~

~~(e) A borrower may designate, with consent given in writing, a HUD-certified housing counseling agency, attorney, or other adviser to discuss with the mortgage servicer, on the borrower's behalf, the borrower's financial situation and options for the borrower to avoid foreclosure. That contact made at the direction of the borrower shall satisfy the contact requirements of paragraph~~

~~(2) of subdivision (b). Any foreclosure prevention alternative offered at the meeting by the mortgage servicer is subject to approval by the borrower.~~

~~(f) A notice of default may be recorded pursuant to Section 2924 when a mortgage servicer has not contacted a borrower as required by paragraph (2) of subdivision (b), provided that the failure to contact the borrower occurred despite the due diligence of the mortgage servicer. For purposes of this section, "due diligence" shall require and mean all of the following:~~

~~(1) A mortgage servicer shall first attempt to contact a borrower by sending a first-class letter that includes the toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.~~

~~(2) (A) After the letter has been sent, the mortgage servicer shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls shall be made to the primary telephone number on file.~~

~~(B) A mortgage servicer may attempt to contact a borrower using an automated system to dial borrowers, provided that, if the telephone call is answered, the call is connected to a live representative of the mortgage servicer.~~

~~(C) A mortgage servicer satisfies the telephone contact requirements of this paragraph if it determines, after attempting contact pursuant to this paragraph, that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected.~~

~~(3) If the borrower does not respond within two weeks after the telephone call requirements of paragraph (2) have been satisfied, the mortgage servicer shall then send a certified letter, with return receipt requested, that includes the toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.~~

~~(4) The mortgage servicer shall provide a means for the borrower to contact it in a timely manner, including a toll-free telephone number that will provide access to a live representative during business hours.~~

~~(5) The mortgage servicer has posted a prominent link on the homepage of its Internet Web site, if any, to the following information:~~

~~(A) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options.~~

~~(B) A list of financial documents borrowers should collect and be prepared to present to the mortgage servicer when discussing options for avoiding foreclosure.~~

~~(C) A toll-free telephone number for borrowers who wish to discuss options for avoiding foreclosure with their mortgage servicer.~~

~~(D) The toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.~~

~~(g) This section shall not apply to entities described in subdivision (b) of Section 2924.18.~~

~~(h) This section shall apply only to mortgages or deeds of trust described in Section 2924.15.~~

~~(i) 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. 28. Section 2924.19 of the Civil Code, as amended by Section 10 of Chapter 401 of the Statutes of 2014, is repealed.

~~2924.19. (a) (1) If a trustee's deed upon sale has not been recorded, a borrower may bring an action for injunctive relief to enjoin a material violation of Section 2923.5, 2924.17, or 2924.18.~~

~~(2) An injunction shall remain in place and any trustee's sale shall be enjoined until the court determines that the mortgage servicer, mortgagee, beneficiary, or authorized agent has corrected and remedied the violation or violations giving rise to the action for injunctive relief. An enjoined entity may move to dissolve an injunction based on a showing that the material violation has been corrected and remedied.~~

~~(b) After a trustee's deed upon sale has been recorded, a mortgage servicer, mortgagee, beneficiary, or authorized agent shall be liable to a borrower for actual economic damages pursuant to Section 3281, resulting from a material violation of Section 2923.5, 2924.17, or 2924.18 by that mortgage servicer, mortgagee, beneficiary, or authorized agent where the violation was not corrected and remedied prior to the recordation of the trustee's deed upon sale. If the court finds that the material violation was intentional or reckless, or resulted from willful misconduct by a~~

~~mortgage servicer, mortgagee, beneficiary, or authorized agent, the court may award the borrower the greater of treble actual damages or statutory damages of fifty thousand dollars ($50,000).~~

~~(c) A mortgage servicer, mortgagee, beneficiary, or authorized agent shall not be liable for any violation that it has corrected and remedied prior to the recordation of the trustee's deed upon sale, or that has been corrected and remedied by third parties working on its behalf prior to the recordation of the trustee's deed upon sale.~~

~~(d) A violation of Section 2923.5, 2924.17, or 2924.18 by a person licensed by the Department of Business Oversight or the Bureau of Real Estate shall be deemed to be a violation of that person's licensing law.~~

~~(e) A violation of this article shall not affect the validity of a sale in favor of a bona fide purchaser and any of its encumbrancers for value without notice.~~

~~(f) A third-party encumbrancer shall not be relieved of liability resulting from violations of Section 2923.5, 2924.17, or 2924.18, committed by that third-party encumbrancer, that occurred prior to the sale of the subject property to the bona fide purchaser.~~

~~(g) The rights, remedies, and procedures provided by this section are in addition to and independent of any other rights, remedies, or procedures under any other law. Nothing in this section shall be construed to alter, limit, or negate any other rights, remedies, or procedures provided by law.~~

~~(h) A court may award a prevailing borrower reasonable attorney's fees and costs in an action brought pursuant to this section. A borrower shall be deemed to have prevailed for purposes of this subdivision if the borrower obtained injunctive relief or damages pursuant to this section.~~

~~(i) This section shall apply only to entities described in subdivision (b) of Section 2924.18.~~

~~(j) 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. 29. Section 2924.20 of the Civil Code, as amended by Section 12 of Chapter 401 of the Statutes of 2014, is repealed.

~~2924.20. Consistent with their general regulatory authority, and notwithstanding subdivisions (b) and (c) of Section 2924.18, the Department of Business Oversight and the Bureau of Real~~

~~Estate may adopt regulations applicable to any entity or person under their respective jurisdictions that are necessary to carry out the purposes of the act that added this section. A violation of the regulations adopted pursuant to this section shall only be enforceable by the regulatory agency.~~

SEC. 30. Section 2934a of the Civil Code, as amended by Section 1 of Chapter 839 of the Statutes of 1996, is repealed.

~~2934a. (a) (1) The trustee under a trust deed upon real property or an estate for years therein given to secure an obligation to pay money and conferring no other duties upon the trustee than those which are incidental to the exercise of the power of sale therein conferred, may be substituted by the recording in the county in which the property is located of a substitution executed and acknowledged by: (A) all of the beneficiaries under the trust deed, or their successors in interest, and the substitution shall be effective notwithstanding any contrary provision in any trust deed executed on or after January 1, 1968; or (B) the holders of more than 50 percent of the record beneficial interest of a series of notes secured by the same real property or of undivided interests in a note secured by real property equivalent to a series transaction, exclusive of any notes or interests of a licensed real estate broker that is the issuer or servicer of the notes or interests or of any affiliate of that licensed real estate broker.~~

~~(2) A substitution executed pursuant to subparagraph (B) of paragraph (1) is not effective unless all the parties signing the substitution sign, under penalty of perjury, a separate written document stating the following:~~

~~(A) The substitution has been signed pursuant to subparagraph (B) of paragraph (1).~~

~~(B) None of the undersigned is a licensed real estate broker or an affiliate of the broker that is the issuer or servicer of the obligation secured by the deed of trust.~~

~~(C) The undersigned together hold more than 50 percent of the record beneficial interest of a series of notes secured by the same real property or of undivided interests in a note secured by real property equivalent to a series transaction.~~

~~(D) Notice of the substitution was sent by certified mail, postage prepaid, with return receipt requested to each holder of an interest in the obligation secured by the deed of trust who has not joined in the execution of the substitution or the separate document.~~

~~The separate document shall be attached to the substitution and be recorded in the office of the county recorder of each county in which the real property described in the deed of trust is located. Once the document required by this paragraph is recorded, it shall constitute conclusive evidence of compliance with the requirements of this paragraph in favor of substituted trustees acting pursuant to this section, subsequent assignees of the obligation secured by the deed of trust, and subsequent bona fide purchasers or encumbrancers for value of the real property described therein.~~

~~(3) For purposes of this section, "affiliate of the licensed real estate broker" includes any person as defined in Section 25013 of the Corporations Code that is controlled by, or is under common control with, or who controls, a licensed real estate broker. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of management and policies.~~

~~(4) The substitution shall contain the date of recordation of the trust deed, the name of the trustor, the book and page or instrument number where the trust deed is recorded, and the name of the new trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority, and title granted and delegated to the trustee named in the deed of trust. A substitution may be accomplished, with respect to multiple deeds of trust which are recorded in the same county in which the substitution is being recorded and which all have the same trustee and beneficiary or beneficiaries, by recording a single document, complying with the requirements of this section, substituting trustees for all those deeds of trust.~~

~~(b) If the substitution is effected after a notice of default has been recorded but prior to the recording of the notice of sale, the beneficiary or beneficiaries shall cause a copy of the substitution to be mailed, prior to the recording thereof, in the manner provided in Section 2924b, to the trustee then of record and to all persons to whom a copy of the notice of default would be required to be mailed by the provisions of Section 2924b. An affidavit shall be attached to the substitution that notice has been given to those persons and in the manner required by this subdivision.~~

~~(c) Notwithstanding any provision of this section or any provision in any deed of trust, unless a new notice of sale containing the name, street address, and telephone number of the~~

~~substituted trustee is given pursuant to Section 2924f, any sale conducted by the substituted trustee shall be void.~~

~~(d) This section shall remain in effect only until January 1, 1998, and shall have no force or effect after that date, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.~~

SEC. 31. Title 17 (commencing with Section 3272) of Part 4 of Division 3 of the Civil Code, as added by Section 2 of Chapter 698 of the Statutes of 1999, is repealed.

SEC. 32. Section 3486 of the Civil Code is amended to read:

3486. (a) To abate the nuisance caused by illegal conduct involving a controlled substance purpose on real property, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to that controlled substance purpose. In filing this action, which shall be based upon an arrest report by a law enforcement agency, reporting an offense committed on the property and documented by the observations of a police officer, the city prosecutor or city attorney shall use the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) (A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and an advisement to the owner of the assignment provision contained in subparagraph (D). The notice shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall, in at least 14-point bold type, meet the following requirements:

(i) The notice shall contain the following language:

"(Date)

(Name of tenant)
(Address of tenant)

Re: Civil Code Section 3486

Dear (name of tenant):

This letter is to inform you that an eviction action may soon be filed in court against you for suspected drug activity. According to state law, Civil Code Section 3486 provides for eviction of persons engaging in such conduct, as described below.

(Name of police department) records indicate that you, (name of arrestee), were arrested on (date) for violations of (list violations) on (address of property).

A letter has been sent to the property owner(s) advising of your arrest and the requirements of state law, as well as the landlord's option to assign the unlawful detainer action to the (name of city attorney or prosecutor's office).

A list of legal assistance providers is provided below. Please note, this list is not exclusive and is provided for your information only; the (name of city attorney or prosecutor's office) does not endorse or recommend any of the listed agencies.

Sincerely,

(Name of deputy city attorney or city prosecutor)
Deputy City (Attorney or Prosecutor)

Notice to Tenant: This notice is not a notice of eviction. You should call (name of the city attorney or prosecutor pursuing the action) at (telephone number) or a legal assistance provider to stop the eviction action if any of the following is applicable:

(1) You are not the person named in this notice.
(2) The person named in the notice does not live with you.
(3) The person named in the notice has permanently moved.

(4) You do not know the person named in the notice.

(5) You want to request that only the person involved in the nuisance be evicted, allowing the other residents to stay.

(6) You have any other legal defense or legal reason to stop the eviction action.

A list of legal assistance providers is attached to this notice. Some provide free legal assistance if you are eligible."

(ii) The notice shall be provided to the tenant in English and, as translated, in all of the languages identified in subdivision (a) of Section 1632 of the Civil Code.

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars ($600). An owner shall only be required to pay the costs or fees upon acceptance of the assignment and the filing of the action for unlawful detainer by the city prosecutor or city attorney.

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons

and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) ~~Nothing in this section shall~~ *This section does not* prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to drug abatement. ~~Where~~ *If* local laws duplicate or supplement this section, this section shall be construed as providing alternative remedies and not preempting the field.

(5) ~~Nothing in this section shall~~ *This section does not* prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For the purposes of this section, "controlled substance purpose" means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351, 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or

Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383 of the Health and Safety Code.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) In an unlawful detainer action filed pursuant to this section, the court shall make one of the following orders:

(1) If the grounds for an eviction have not been established pursuant to this section, the court shall dismiss, without prejudice, the unlawful detainer action.

(2) If the grounds for an eviction have been established pursuant to this section, the court shall do either of the following:

(A) Order that the tenant and all occupants be immediately evicted from the property.

(B) Dismiss the unlawful detainer action with or without prejudice or stay execution of an eviction order for a reasonable length of time if the tenant establishes by clear and convincing evidence that the immediate eviction would pose an extreme hardship to the tenant and that this hardship outweighs the health, safety, or welfare of the neighbors or surrounding community. However, the court ~~may~~ *shall* not find an extreme hardship solely on the basis ~~on~~ *of* an economic hardship or the financial inability of the tenant to pay for and secure other housing or lodging accommodations.

(3) If the grounds for a partial eviction have been established pursuant to subdivision (b), the court shall order that those persons

be immediately removed and barred from the property, but the court ~~may~~ *shall* not order the tenancy be terminated.

(g) This section ~~shall apply~~ *applies* only in the County of Los Angeles to ~~any~~ *a* court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles.

(h) This section shall become operative on January 1, 2014, only if the City of Los Angeles has regularly reported to the California Research Bureau as required by this section as it read during the period from January 1, 2010, to January 1, 2014, inclusive. For purposes of this section, the City of Los Angeles shall be deemed to have complied with this reporting requirement if the 2013 report to the Legislature by the California Research Bureau indicates that the City of Los Angeles has regularly reported to the bureau.

SEC. 33. Section 5910 of the Civil Code is amended to read:

5910. A fair, reasonable, and expeditious dispute resolution procedure ~~shall~~ *shall,* at a ~~minimum~~ *minimum,* satisfy all of the following requirements:

(a) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.

(b) The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for the association to act on a request invoking the procedure.

(c) If the procedure is invoked by a member, the association shall participate in the procedure.

(d) If the procedure is invoked by the association, the member may elect not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the board.

(e) A written resolution, signed by both parties, of a dispute pursuant to the procedure that is not in conflict with the law or the governing documents binds the association and is judicially enforceable. A written agreement, signed by both parties, reached pursuant to the procedure that is not in conflict with the law or the governing documents binds the parties and is judicially enforceable.

(f) The procedure shall provide a means by which the member and the association may explain their positions. The member and association may be assisted by an attorney or another person in explaining their positions at their own cost.

(g) A member of the association shall not be charged a fee to participate in the process.

SEC. 34. Section 5915 of the Civil Code is amended to read:

5915. (a) This section applies to an association that does not otherwise provide a fair, reasonable, and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable, and ~~expeditious,~~ *expeditious* within the meaning of this article.

(b) Either party to a dispute within the scope of this article may invoke the following procedure:

(1) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.

(2) A member of an association may refuse a request to meet and confer. The association ~~may~~ *shall* not refuse a request to meet and confer.

(3) The board shall designate a director to meet and confer.

(4) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute. The parties may be assisted by an attorney or another person at their own cost when conferring.

(5) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the association.

(c) A written agreement reached under this section binds the parties and is judicially enforceable if it is signed by both parties and both of the following conditions are satisfied:

(1) The agreement is not in conflict with law or the governing documents of the common interest development or association.

(2) The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.

(d) A member shall not be charged a fee to participate in the process.

SEC. 35. Section 116.222 of the Code of Civil Procedure, as added by Section 3 of Chapter 600 of the Statutes of 2005, is repealed.

~~116.222. If the action is to enforce the payment of a debt, the statement of calculation of liability shall separately state the original debt, each payment credited to the debt, each fee and~~

~~charge added to the debt, each payment credited against those fees and charges, all other debits or charges to the account, and an explanation of the nature of those fees, charges, debits, and all other credits to the debt, by source and amount.~~

SEC. 36. The heading of Article 5 (commencing with Section 142) of Chapter 6 of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

~~Article 5. Provisions Respecting Places of Holding Courts~~

SEC. 37. The heading of Chapter 1 (commencing with Section 156) of Title 2 of Part 1 of the Code of Civil Procedure is repealed.

~~Chapter 1. Judicial Officers in General~~

SEC. 38. Section 398 of the Code of Civil Procedure is amended to read:

398. ~~If, for any cause, specified in subdivisions 2, 3 and 4 of section 397, the court orders the transfer of an action or proceeding, it must~~ *(a) If a court orders the transfer of an action or proceeding for a cause specified in subdivisions (b), (c), and (d) of Section 397, the action or proceeding shall* be transferred to a court having jurisdiction of the subject matter of the action ~~which the parties may agree upon,~~ *upon agreement of the parties* by stipulation in writing, or ~~made~~ in open court and entered in the minutes or ~~docket; or, if they~~ *docket. If the parties* do not so agree, ~~then~~ *the action or proceeding shall be transferred* to the nearest or most accessible ~~court,~~ *court* where the like objection or cause for making the order does not exist.

~~If~~

(b) If an action or proceeding is commenced in a ~~court,~~ *court* other than one designated as a proper court for the trial thereof by the provisions of this title, and the same ~~be~~ *is* ordered transferred for that reason, ~~it must~~ *the action or proceeding shall* be transferred to ~~any such~~ *a* proper court ~~which the parties may agree upon by stipulation in writing, or made in open court and entered in the minutes or docket; if~~ *upon agreement of the parties by stipulation in writing, or in open court and entered in the minutes or docket. If* the parties do not so agree, ~~then to any such~~ *the action or proceeding shall be transferred to a* proper court in the county in

which the action or proceeding was commenced which the defendant may ~~designate,~~ *designate* or, if there ~~be~~ *is* no ~~such~~ proper court in ~~such~~ *that* county, to ~~any such~~ *a* proper court, in a proper county, designated by the ~~defendant; if the parties do not so agree, and~~ *defendant. If* the defendant does not ~~so~~ designate the ~~court,~~ *court* as herein provided, or ~~where~~ *if* the court orders the transfer of an action on its own motion as provided in this title, *the action or proceeding shall be transferred* to ~~such~~ *the* proper court as *determined by* the court in which the action or proceeding is ~~pending may determine.~~ *pending.*

~~The~~

(c) The designation of the court by the defendant~~, herein~~ *as* provided ~~for,~~ *for in subdivision (b),* may be made in the notice of motion for change of venue or in open ~~court,~~ *court and* entered in the minutes or ~~docket,~~ *docket* at the time the order for transfer is made.

SEC. 39. Section 629 of the Code of Civil Procedure is amended to read:

629. (a) The court, before the expiration of its power to rule on a motion for a new trial, either of its own motion, after five days' notice, or on motion of a party against whom a verdict has been rendered, shall render judgment in favor of the aggrieved party notwithstanding the verdict whenever a motion for a directed verdict for the aggrieved party should have been granted had a previous motion been made.

(b) A motion for judgment notwithstanding the verdict shall be made within the period specified by Section 659 for the filing and service of a notice of intention to move for a new trial. The moving, opposing, and reply briefs and any accompanying documents shall be filed and served within the periods specified by Section ~~659a~~ *659a,* and the hearing on the motion shall be set in the same manner as the hearing on a motion for new trial under Section 660. The making of a motion for judgment notwithstanding the verdict shall not extend the time within which a party may file and serve notice of intention to move for a new trial. The court shall not rule upon the motion for judgment notwithstanding the verdict until the expiration of the time within which a motion for a new trial must be served and filed, and if a motion for a new trial has been filed with the court by the aggrieved party, the court shall rule upon both motions at the same time. The power of the court to rule on

a motion for judgment notwithstanding the verdict shall not extend beyond the last date upon which it has the power to rule on a motion for a new trial. If a motion for judgment notwithstanding the verdict is not determined before that date, the effect shall be a denial of that motion without further order of the court.

(c) If the motion for judgment notwithstanding the verdict is denied and if a new trial is denied, the appellate court shall, ~~when~~ *if* it appears that the motion for judgment notwithstanding the verdict should have been granted, order judgment to be so entered on appeal from the judgment or from the order denying the motion for judgment notwithstanding the verdict.

(d) If a new trial is granted to the party moving for judgment notwithstanding the verdict, and the motion for judgment notwithstanding the verdict is denied, the order denying the motion for judgment notwithstanding the verdict shall nevertheless be reviewable on appeal from that order by the aggrieved party. If the court grants the motion for judgment notwithstanding the verdict or of its own motion directs the entry of judgment notwithstanding the verdict and likewise grants the motion for a new trial, the order granting the new trial shall be effective only if, on appeal, the judgment notwithstanding the verdict is reversed, and the order granting a new trial is not appealed from or, if appealed from, is affirmed.

SEC. 40. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing

to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing. If the petition seeks to conform the petitioner's name to his or her gender identity and no objection is timely filed, the court shall grant the petition without a hearing.

(2) A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If ~~no~~ *a* newspaper of general circulation is *not* published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or ~~posting,~~ *posting* at the time of the hearing of the application.

(3) Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

(4) If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days ~~prior to~~ *before* the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to the nonconsenting parent, the court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(5) If the petition for a change of name is sought in order to conform the petitioner's name to his or her gender identity, the action for a change of name is exempt from the requirement for publication of the order to show cause under this subdivision.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that he or she is an active participant in the address

confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, and that the name he or she is seeking to acquire is on file with the Secretary of State, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and is on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Section 1036.2 of the Evidence Code.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display.

(4) Notwithstanding paragraph (3), the court may, at the request of the petitioner, issue an order reciting the name of the petitioner at the time of the filing of the petition and the new legal name of the petitioner as a result of the court's granting of the petition.

(5) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may grant the request in any case in which the court finds that all of the following factors apply:

(A) There exists an overriding interest that overcomes the right of public access to the record.

(B) The overriding interest supports sealing the record.

(C) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

(D) The proposed order to seal the records is narrowly tailored.

(E) No less restrictive means exist to achieve the overriding interest.

(c) A proceeding for a change of name for a witness participating in the state Witness ~~Protection~~ *Relocation and Assistance* Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) If an application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) If a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days ~~prior to~~ *before* the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days ~~prior to~~ *before* the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(f) This section shall become operative on July 1, 2014.

SEC. 41. Section 2030.010 of the Code of Civil Procedure is amended to read:

2030.010. (a) Any party may obtain discovery within the scope delimited by ~~Chapters~~ *Chapter* 2 (commencing with Section ~~2017.010) and 3 (commencing with Section 2017.710),~~ *2017.010)*, and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by propounding to any other party to the action written interrogatories to be answered under oath.

(b) An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial.

SEC. 42. Section 9321.1 of the Commercial Code is amended to read:

9321.1. A licensee of nonexclusive rights in a motion picture that is produced pursuant to one or more collective bargaining agreements governed by the laws of the United States takes its nonexclusive license in ~~such~~ *that* motion picture subject to any perfected security interest securing the obligation to pay residuals as set forth in the applicable collective bargaining agreement and arising from exploitation under ~~such~~ *the* license. The terms "motion picture" and "residuals" have the meaning ascribed to ~~such~~ *those* terms under the applicable collective bargaining agreements.

SEC. 43. The heading of Part 6 (commencing with Section 3601) of Division 3 of the Commercial Code is amended to read:

~~PART 6. [CHAPTER 6.] DISCHARGE AND PAYMENT~~

Chapter 6. Discharge and Payment

SEC. 44. Section 5047 of the Corporations Code is amended to read:

5047. Except ~~where~~ *as* otherwise expressly provided, "directors" means natural persons, designated in the articles or bylaws or elected by the incorporators, and their successors and natural persons designated, ~~elected~~ *elected,* or appointed by any other name or title to act as members of the governing body of the corporation. If the articles or bylaws designate that a natural person is a director or a member of the governing body of the corporation by reason of occupying a specified position within the corporation or outside the corporation, without limiting that person's right to vote as a member of the governing body, that person shall be a director for all purposes and shall have the same rights and obligations, including voting rights, as the other directors. A person

who does not have authority to vote as a member of the governing body of the corporation, is not a director as that term is used in this division regardless of title.

SEC. 45. Section 12637 of the Corporations Code, as added by Section 54 of Chapter 589 of the Statutes of 1996, is amended and renumbered to read:

~~12637.~~

12638. (a) A corporation in the process of winding up may dispose of the known claims against it by following the procedure described in this section.

(b) The written notice to known creditors and claimants required by subdivision (c) of Section 12633 shall comply with all of the following requirements:

(1) Describe any information that must be included in a claim.

(2) Provide a mailing address where a claim may be sent.

(3) State the deadline, which ~~may~~ *shall* not be fewer than 120 days from the effective date of the written notice, by which the corporation must receive the claim.

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the corporation is barred if any of the following occur:

(1) A claimant who has been given the written notice under subdivision (b) does not deliver the claim to the corporation by the deadline.

(2) A claimant whose claim was rejected by the corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section, “claim” does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SEC. 46. Section 25620 of the Corporations Code is amended to read:

25620. (a) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section ~~shall~~ *does* not require the commissioner to accept electronic records or electronic signatures.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means. "Electronic record" also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any qualification, registration, order, permit, certificate, license, consent, or other authority.

(B) A financial statement, ~~reports,~~ *report*, or advertising.

(C) An order, permit, certificate, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, qualification, registration, order, permit, certificate, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(c) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, including broker-dealer and investment adviser applications, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 47. Section 31116 of the Corporations Code is amended to read:

31116. (a) Except as provided in subdivision (b), if no stop order under Section 31115 is in effect under this law, registration of the offer of franchises automatically becomes effective at 12 ~~o'clock noon,~~ *p.m.*, California time, of the 30th business day after the filing of a complete application for registration or the last

preeffective amendment thereto, or at ~~such~~ *an* earlier time ~~as~~ *that* the commissioner determines.

(b) With respect to any application for registration or the last amendment thereto filed between January 1, 1971, and March 15, 1971, if no stop order under Section 31115 is in effect under this law, registration becomes effective on April 15, 1971; with respect to any application filed after March 15, 1971 and before May 10, 1971, if no stop order under Section 31115 is in effect under this law, registration becomes effective on June 1, 1971, or the 15th business day after the filing, whichever is the later, or at ~~such~~ *an* earlier time ~~as~~ *that* the commissioner determines.

(c) For purposes of this section, "complete application" means an application that contains the appropriate filing fee, Uniform Franchise Disclosure Document, and all additional exhibits, including financial statements in conformity with regulations of the commissioner. "Preeffective amendment" means an amendment to an application that is filed before the effective date of the registration of the sale of franchises.

SEC. 48. Section 31121 of the Corporations Code is amended to read:

31121. (a) The registration may be renewed for additional periods of one year each, unless the commissioner by rule or order specifies a different period, by submitting to the commissioner a renewal application before the expiration of the registration. If no stop order or other order under Section 31115 is in effect under this law, registration of the offer of the franchises automatically becomes renewed effective at 12 ~~o'clock noon,~~ *p.m.*, California time, of the 30th business day after the filing of a complete application for registration or the last preeffective amendment or at ~~such~~ *an* earlier time ~~as~~ *that* the commissioner determines.

(b) For purposes of this section, "complete application" means an application that contains the appropriate filing fee, Uniform Franchise Disclosure Document, and all additional exhibits, including financial statements in conformity with regulations of the commissioner. "Preeffective amendment" means an amendment to an application that is filed before the effective date of the registration of the sale of franchises.

SEC. 49. Section 31158 of the Corporations Code is amended to read:

31158. (a) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section ~~shall~~ *does* not require the commissioner to accept electronic records or electronic signatures.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means an initial registration application, registration renewal statement, preeffective amendment, posteffective amendment, or material modification and any other record created, generated, sent, communicated, received, or stored by electronic means. "Electronic record" also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any registration, order, license, consent, or other authority.

(B) A financial statement, ~~reports,~~ *report*, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, registration, order, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(c) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, including broker-dealer and investment adviser applications, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 50. Section 1313 of the Education Code is amended to read:

1313. Each county employee whose status is changed by this article, and who is in employment and a member of a county retirement system other than one provided by contract with the ~~State~~ *Public* Employees' Retirement System on the date of ~~such~~ *the* change, shall become eligible for membership in the ~~State~~ *Public* Employees' Retirement System in accordance with the ~~State~~ *Public* Employees' Retirement Law with respect to his *or her* employment thereafter, and shall be subject to the reciprocal benefits provided by said systems; provided, that ~~such~~ *the* employee may elect to continue in membership of ~~such~~ *the* county retirement system with respect to ~~such~~ *his or her* employment thereafter, in which event the same appropriations and transfers of funds shall be made to the retirement fund of the county system for ~~such~~ *the* employee as those required of the county under the county retirement law, and ~~such~~ *these* amounts shall be legal charges against the county school service fund. The election authorized by this section shall be made no later than the date preceding the date upon which his status is changed in accordance with procedures to be established by the board of supervisors, which shall allow at least 30 days to make the election. The election once made ~~may~~ *shall* not be rescinded. An employee who does not elect to continue membership in the county system shall be deemed to have discontinued county employment for purposes of the county system at the close of the day preceding the date upon which his status changes.

SEC. 51. Section 2575 of the Education Code is amended to read:

2575. (a) Commencing with the 2013–14 fiscal year and for each fiscal year thereafter, the Superintendent shall calculate a base entitlement for the transition to the county local control funding formula for each county superintendent of schools based on the sum of the amounts computed pursuant to paragraphs (1) to (3), inclusive, as adjusted pursuant to paragraph (4):

(1) Revenue limits in the 2012–13 fiscal year pursuant to Article 3 (commencing with Section 2550) of Chapter 12, as that article read on January 1, 2013, adjusted only for changes in average daily attendance claimed by the county superintendent of schools for pupils identified in clauses (i), (ii), and (iii) of subparagraph (A)

of paragraph (4) of subdivision (c) of Section 2574 and for pupils attending juvenile court schools. For purposes of this paragraph, the calculation of an amount per unit of average daily attendance for pupils attending juvenile court schools shall be considered final for purposes of this section as of the annual apportionment for the 2012–13 fiscal year, as calculated for purposes of the certification required on or before February 20, 2014, pursuant to Sections 41332 and 41339. All other average daily attendance claimed by the county superintendent of schools and any other average daily attendance used for purposes of calculating revenue limits pursuant to Article 3 (commencing with Section 2550) of Chapter 12, as that article read on January 1, 2013, shall be considered final for purposes of this section as of the annual apportionment for the 2012–13 fiscal year, as calculated for purposes of the certification required on or before February 20, 2014, pursuant to Sections 41332 and 41339.

(2) The sum of all of the following:

(A) The amount of funding received from appropriations contained in Section 2.00 of the Budget Act of 2012, as adjusted by Section 12.42, in the following items: 6110-104-0001, 6110-105-0001, 6110-107-0001, 6110-108-0001, 6110-111-0001, 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001, 6110-267-0001, 6110-268-0001, and 6360-101-0001, 2012–13 fiscal year funding for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of Division 4 of Title 2, as that chapter read on January 1, 2013, and 2012–13 fiscal year funding for pupils enrolled in community day schools who are mandatorily expelled pursuant to subdivision (d) of Section 48915. For purposes of this subparagraph, the 2012–13 fiscal year appropriations described in this subparagraph shall be considered final as of the annual apportionment for the 2012–13 fiscal year, as calculated for purposes of the certification required on or before February 20, 2014, pursuant to Sections 41332 and 41339.

(B) The amount of local revenues used to support a regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301.

(3) For the 2014–15 fiscal year and for each fiscal year thereafter, the sum of the amounts apportioned to the county superintendent of schools pursuant to subdivision (f) in all prior years.

(4) The revenue limit amount determined pursuant to paragraph (1) shall be increased by the difference determined by subtracting the amount provided per unit of average daily attendance in paragraph (1) for pupils attending a school that is eligible for funding pursuant to paragraph (2) of subdivision (b) of Section 42285 from the amount of funding that was provided to eligible schools in the 2012–13 fiscal year pursuant to Sections 42284 and 42238.146, as those sections read on January 1, 2013.

(b) The Superintendent shall annually compute a county local control funding formula transition adjustment for each county superintendent of schools as follows:

(1) Subtract the amount computed pursuant to subdivision (a) from the amount computed pursuant to subdivision (e) of Section 2574. A difference of less than zero shall be deemed to be zero.

(2) Divide the difference for each county superintendent of schools calculated pursuant to paragraph (1) by the total sum of the differences for all county superintendents of schools calculated pursuant to paragraph (1).

(3) Multiply the proportion calculated for each county superintendent of schools pursuant to paragraph (2) by the amount of funding specifically appropriated for purposes of subdivision (f). The amount calculated shall not exceed the difference for the county superintendent of schools calculated pursuant to paragraph (1).

(c) The Superintendent shall subtract from the amount calculated pursuant to subdivision (a) the sum of each of the following:

(1) Local property tax revenues received pursuant to Section 2573 in the then current fiscal year.

(2) Any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978–79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 51 of the Statutes of 1979.

(3) The amount received pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 33607.5 of the Health and Safety Code that is considered property taxes pursuant to that section.

(4) The amount, if any, received pursuant to Sections 34177, 34179.5, 34179.6, 34183, and 34188 of the Health and Safety Code.

(5) The amount, if any, received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(d) The Superintendent shall subtract from the amount computed pursuant to subdivision (e) of Section 2574 the sum of the amounts computed pursuant to paragraphs (1) to (5), inclusive, of subdivision (c).

(e) The Superintendent shall annually apportion to each county superintendent of schools the amount calculated pursuant to subdivision (c) unless the amount computed pursuant to subdivision (c) is negative. If the amount computed is negative, except as provided in subdivision (f), an amount of property tax of the county superintendent of schools equal to the negative amount shall be deemed restricted and not available for expenditure during the fiscal year. In the following fiscal year, that amount, excluding any amount of funds used for purposes of subdivision (f), shall be considered restricted local property tax revenue for purposes of subdivision (a) of Section 2578. State aid shall not be apportioned to the county superintendent of schools pursuant to this subdivision if the amount computed pursuant to subdivision (c) is negative.

(f) (1) The Superintendent shall apportion, from an appropriation specifically made for this purpose, the amount computed pursuant to subdivision (b), or, if the amount computed pursuant to subdivision (c) is negative, the sum of the amounts computed pursuant to subdivisions (b) and (c) if the sum ~~if~~ *is* greater than zero.

(2) The Superintendent shall apportion any portion of the appropriation made for purposes of paragraph (1) that is not apportioned pursuant to paragraph (1) pursuant to the following calculation:

(A) Add the amount calculated pursuant to subdivision (b) to the amount computed pursuant to subdivision (a) for a county superintendent of schools.

(B) Subtract the amount computed pursuant to subparagraph (A) from the amount computed pursuant to subdivision (e) of Section 2574 for the county superintendent of schools.

(C) Divide the difference for the county superintendent of schools computed pursuant to subparagraph (B) by the sum of the differences for all county superintendents of schools computed pursuant to subparagraph (B).

(D) Multiply the proportion computed pursuant to subparagraph (C) by the unapportioned balance in the appropriation. That product shall be the county superintendent of schools' proportion of total need.

(E) Apportion to each county superintendent of schools the amount calculated pursuant to subparagraph (D), or if subdivision (c) is negative, apportion the sums of subdivisions (b) and (c) and subparagraph (D) of this subdivision if the sum is greater than zero.

(F) The Superintendent shall repeat the computation made pursuant to this paragraph, accounting for any additional amounts apportioned after each computation, until the appropriation made for purposes of paragraph (1) is fully apportioned.

(G) The total amount apportioned pursuant to this subdivision to a county superintendent of schools shall not exceed the difference for the county superintendent of schools calculated pursuant to paragraph (1) of subdivision (b).

(H) For purposes of this paragraph, the proportion of need that is funded from any appropriation made specifically for purposes of this subdivision in the then current fiscal year shall be considered fixed as of the second principal apportionment for that fiscal year. Adjustments to a county superintendent of schools' total need computed pursuant to subparagraph (D) after the second principal apportionment for the then current fiscal year shall be funded based on the fixed proportion of need that is funded for that fiscal year pursuant to this subdivision, and shall be continuously appropriated pursuant to Section 14002.

(g) (1) For a county superintendent of schools for whom, in the 2013–14 fiscal year, the amount computed pursuant to subdivision (c) is less than the amount computed pursuant to subdivision (d), in the first fiscal year following the fiscal year in which the sum of the apportionments computed pursuant to subdivisions (e) and (f) is equal to, or greater than, the amount computed pursuant to

subdivision (d) of this section, the Superintendent shall apportion to the county superintendent of schools the amount computed in subdivision (d) in that fiscal year and each fiscal year thereafter instead of the amounts computed pursuant to subdivisions (e) and (f).

(2) For a county superintendent of schools for whom, in the 2013–14 fiscal year, the amount computed pursuant to subdivision (c) is greater than the amount computed pursuant to subdivision (d), in the first fiscal year in which the amount computed pursuant to subdivision (c) would be less than the amount computed pursuant to subdivision (d), the Superintendent shall apportion to the county superintendent of schools the amount computed in subdivision (d) in that fiscal year and each fiscal year thereafter instead of the amounts computed pursuant to subdivisions (e) and (f).

(3) In each fiscal year, the Superintendent shall determine the percentage of county superintendents of schools that are apportioned funding that is less than the amount computed pursuant to subdivision (d), as of the second principal apportionment of the fiscal year. If the percentage is less than 10 percent, the Superintendent shall apportion to those county superintendents of schools funding equal to the amount computed in subdivision (d) in that fiscal year and for each fiscal year thereafter instead of the amounts calculated pursuant to subdivisions (e) and (f).

(4) Commencing with the first fiscal year after the apportionments in paragraph (3) are made, the adjustments in paragraph (4) of subdivision (a) of Section 2574 and subparagraph (B) of paragraph (1) of subdivision (c) of Section 2574 shall be made only if an appropriation for those purposes is included in the annual Budget Act.

(5) If the calculation pursuant to subdivision (d) is negative and the Superintendent apportions to a county superintendent of schools the amount computed pursuant to subdivision (d) pursuant to paragraph (1), (2), or (3) of this subdivision, an amount of property tax of the county superintendent of schools equal to the negative amount shall be deemed restricted and not available for expenditure during that fiscal year. In the following fiscal year the restricted amount shall be considered restricted local property tax revenue for purposes of subdivision (a) of Section 2578.

(h) Commencing with the 2013–14 fiscal year, the Superintendent shall apportion to a county superintendent of

schools an amount of state aid, including any amount apportioned pursuant to subdivisions (f) and (g), that is ~~no~~ *not* less than the amount calculated in subparagraph (A) of paragraph (2) of subdivision (a).

(i) (1) For the 2013–14 and 2014–15 fiscal years only, a county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to, a regional occupational center or program joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing instruction to pupils enrolled in grades 9 to 12, inclusive, shall not redirect that funding for another purpose unless otherwise authorized by law or pursuant to an agreement between the regional occupational center or program joint powers agency and the contracting county superintendent of schools.

(2) For the 2013–14 and 2014–15 fiscal years only, if a regional occupational center or program joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing instruction to pupils enrolled in grades 9 to 12, inclusive, received, in the 2012–13 fiscal year, an apportionment of funds directly from any of the funding sources identified in subparagraph (A) of paragraph (2) of subdivision (a), the Superintendent shall apportion that same amount to the regional occupational center or program joint powers agency.

(j) For the 2013–14 and 2014–15 fiscal years only, a county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to, a home-to-school transportation joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing pupil transportation shall not redirect that funding for another purpose unless otherwise authorized by law or pursuant to an agreement between the home-to-school transportation joint powers agency and the contracting county superintendent of schools.

(k) (1) In addition to subdivision (j), of the funds a county superintendent of schools receives for home-to-school transportation programs, the county superintendent of schools shall expend, pursuant to Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5 of Division 3 of Title 2, Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of Division 3 of Title 2, and the Small School District Transportation program, as set forth in Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of Division 3 of Title 2, no less for those programs than the amount of funds the county superintendent of schools expended for home-to-school transportation in the 2012–13 fiscal year.

(2) For the 2013–14 and 2014–15 fiscal years only, if a home-to-school transportation joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing pupil transportation received, in the 2012–13 fiscal year, an apportionment of funds directly from the Superintendent from any of the funding sources identified in subparagraph (A) of paragraph (2) of subdivision (a), the Superintendent shall apportion that same amount to the home-to-school transportation joint powers agency.

(3) For the 2013–14 and 2014–15 fiscal years only, of the funds a county superintendent of schools receives for purposes of regional occupational centers or programs, or adult education, the county superintendent of schools shall expend no less for each of those programs than the amount of funds the county superintendent of schools expended for purposes of regional occupational centers or programs, or adult education, respectively, in the 2012–13 fiscal year. For purposes of this paragraph, a county superintendent of schools may include expenditures made by a school district within the county for purposes of regional occupational centers or programs so long as the total amount of expenditures made by the school districts and the county superintendent of schools equals or exceeds the total amount required to be expended for purposes of regional occupational centers or programs pursuant to this paragraph and paragraph (7) of subdivision (a) of Section 42238.03.

(*l*) The funds apportioned pursuant to this section and Section 2574 shall be available to implement the activities required

pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

SEC. 52. Section 2577 of the Education Code is amended to read:

2577. Notwithstanding any other law, revenue limit funding for county superintendents of schools for the 2012–13 fiscal year and prior fiscal years shall continue to be adjusted pursuant to Article 3 (commencing with Section 2550) of Chapter 12, as that ~~section~~ *article* read on January 1, 2013.

SEC. 53. Section 8261 of the Education Code is amended to read:

8261. (a) The Superintendent shall adopt rules and regulations pursuant to this chapter. The rules and regulations shall include, but not be limited to, provisions ~~which~~ *that* do all of the following:

(1) Provide clear guidelines for the selection of agencies when child development contracts are let, including, but not limited to, specification that any agency headquartered in the proposed service area on January 1, 1985, will be given priority for a new contract in that area, unless the department makes a written determination that (A) the agency is not able to deliver the level of services specified in the request for proposal, or (B) the department has notified the agency that it is not in compliance with the terms of its contract.

(2) Provide for a contract monitoring system to ensure that agencies expend funds received pursuant to this chapter in accordance with the provisions of their contracts.

(3) Specify adequate standards of agency performance.

(4) Establish reporting requirements for service reports, including provisions for varying the frequency with which these reports are to be submitted on the basis of agency performance.

(5) Specify standards for withholding payments to agencies that fail to submit required fiscal reports.

(6) Set forth standards for department site visits to contracting agencies, including, but not limited to, specification as to the purpose of the visits, the personnel that will perform these visits, and the frequency of these visits which shall be as frequently as staff and budget resources permit. By September 1 of each year, the department shall report to the Senate Education, Senate Health and Human Services, Assembly Education, and Assembly Human

Services Committees on the number of visits conducted during the previous fiscal year pursuant to this paragraph.

(7) Authorize the department to develop a process that requires every contracting agency to recompete for continued funding no less frequently than every five years.

(b) The Superintendent shall consult with the State Department of Social Services with respect to rules and regulations adopted relative to the disbursal of federal funds under Title XX of the federal Social Security Act.

(c) For purposes of expediting the implementation of state or federal legislation to expand child care services, the Superintendent may waive (1) the regulations regarding the point qualifications for, and the process and scoring of, interviews of contract applicants pursuant to Section 18002 of Title 5 of the California Code of Regulations, or (2) the time limitations for scheduling and notification of appeal hearings and their results pursuant to Section 18003 of Title 5 of the California Code of Regulations. The Superintendent shall ensure that the appeal hearings provided for in Section 18003 of Title 5 of the California Code of Regulations are conducted in a timely manner.

(d) (1) Child care and development programs operated under contract from funds made available pursuant to the federal Child Care and Development Fund, shall be administered according to ~~Division~~ *Chapter* 19 (commencing with Section 17906) of ~~Chapter~~ *Division* 1 of Title 5 of the California Code of Regulations, unless provisions of these regulations conflict with federal regulations. If state and federal regulations conflict, the federal regulations shall apply unless a waiver of federal regulations is authorized.

(2) For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

SEC. 54. Section 8273.1 of the Education Code is amended to read:

8273.1. (a) Families receiving services pursuant to subparagraph (B) of paragraph (1) of subdivision (b) of Section 8263 may be exempt from family fees for up to three months.

(b) Families receiving services pursuant to subparagraph (C) of paragraph (1) of subdivision (b) of Section 8263 may be exempt from family fees for up to 12 months.

(c) The cumulative period *of* time of exemption from family fees for families receiving services pursuant to paragraph (1) of subdivision (b) of Section 8263 shall not exceed 12 months.

(d) Notwithstanding any other law, a family receiving CalWORKs cash aid shall not be charged a family fee.

(e) Notwithstanding any other law, commencing with the 2014–15 fiscal year, family fees shall not be assessed for the part-day California preschool program to income eligible families whose children are enrolled in that program pursuant to Article 7 (commencing with Section 8235).

SEC. 55. Section 8350.5 of the Education Code, as added by Section 3 of Chapter 329 of the Statutes of 1998, is repealed.

~~8350.5. Current CalWORKs recipients are eligible for all child care services under this article as long as they continue to receive aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program. Family size and income, for purposes of calculating family fees, shall be determined pursuant to Section 8263.~~

SEC. 56. Section 8363.1 of the Education Code is amended to read:

8363.1. (a) On or ~~before,~~ *before* July 1, 2016, the Commission on Teacher Credentialing shall review, and update if appropriate, the requirements for the issuance and renewal of permits authorizing service in the care, development, and instruction of children in child care and development programs and permits authorizing supervision of a child care and development program.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 57. Section 8450 of the Education Code is amended to read:

8450. (a) All child development contractors are encouraged to develop and maintain a reserve within the child development fund, derived from earned but unexpended funds. Child development contractors may retain all earned funds. For purposes of this section, “earned funds” are those for which the required number of eligible service units have been provided.

(b) (1) Earned funds shall not be expended for activities proscribed by Section 8406.7. Earned but unexpended funds shall remain in the contractor’s reserve account within the child

development fund and shall be expended only by direct service child development programs that are funded under contract with the department.

(2) (A) Commencing July 1, 2011, a contractor may retain a reserve fund balance, separate from the reserve fund retained pursuant to subdivision (c) or (d), equal to 5 percent of the sum of the maximum reimbursable amounts of all contracts to which the contractor is a party, or two thousand dollars ($2,000), whichever is greater. This ~~paragraph~~ *subparagraph* applies to direct service child development contracting agencies that are funded under contract with the department and are not a California state preschool program contracting agency.

(B) A California state preschool program contracting agency may retain a reserve fund balance, separate from the reserve fund retained pursuant to subdivision (c) or (d), equal to 15 percent of the sum of the maximum reimbursable amounts of all contracts to which the contractor is a party, or two thousand dollars ($2,000), whichever is greater. Of the 15 percent retained, 10 percent shall solely be used for purposes of professional development for California state preschool program instructional staff. This ~~paragraph~~ *subparagraph* applies to California state preschool program contracting agencies that are funded under contract with the department.

(c) Notwithstanding subdivisions (a) and (b), a contractor may retain a reserve fund balance for a resource and referral program, separate from the balance retained pursuant to subdivision (b) or (d), not to exceed 3 percent of the contract amount. Funds from this reserve account may be expended only by resource and referral programs that are funded under contract with the department.

(d) Notwithstanding subdivisions (a) and (b), a contractor may retain a reserve fund balance for alternative payment model and certificate child care contracts, separate from the reserve fund retained pursuant to subdivisions (b) and (c). Funds from this reserve account may be expended only by alternative payment model and certificate child care programs that are funded under contract with the department. The reserve amount allowed by this ~~section~~ *subdivision* may not exceed either of the following, whichever is greater:

(1) Two percent of the sum of the parts of each contract to which that contractor is a party that is allowed for administration pursuant

to Section 8276.7 and that is allowed for supportive services pursuant to the provisions of the contract.

(2) One thousand dollars ($1,000).

(e) Each contractor's audit shall identify any funds earned by the contractor for each contract through the provision of contracted services in excess of funds expended.

(f) Any interest earned on reserve funds shall be included in the fund balance of the reserve. This reserve fund shall be maintained in an interest-bearing account.

(g) Moneys in a contractor's reserve fund may be used only for expenses that are reasonable and necessary costs as defined in subdivision (n) of Section 8208.

(h) Any reserve fund balance in excess of the amount authorized pursuant to subdivisions (b), (c), and (d) shall be returned to the department pursuant to procedures established by the department.

(i) Upon termination of all child development contracts between a contractor and the department, all moneys in a contractor's reserve fund shall be returned to the department pursuant to procedures established by the department.

(j) Expenditures from, additions to, and balances in, the reserve fund shall be included in the contracting agency's annual financial statements and audit.

SEC. 58. Section 8483.55 of the Education Code is amended to read:

8483.55. (a) From the funds appropriated pursuant to subdivision (b) of Section 8483.5, the department may spend 1.5 percent to cover evaluation costs and to provide training and support to ensure quality program implementation, development, and sustainability and may pay its costs of awarding and monitoring grants.

(b) Beginning with the 2006–07 fiscal year, 1.5 percent of the funds appropriated pursuant to this article shall be available to the department for purposes of providing technical assistance, evaluation, and training services, and for providing local assistance funds to support program improvement and technical assistance.

(1) The department shall provide directly, or contract for, technical assistance for new programs and any program that is not meeting attendance or performance goals, or both, and requests that assistance. The department shall allocate an appropriate level of technical assistance funds to the regional system of support to

support program startup within 45 days after grant awards to programs.

(2) (A) Training and support shall include, but is not limited to, the development and distribution of voluntary guidelines for physical activity programs established pursuant to paragraph ~~(2)~~ *(1)* of subdivision (c) of Section 8482.3, that expand the learning opportunities of the schoolday.

(B) The department shall distribute these voluntary guidelines for physical activity programs on or before July 1, 2009.

(c) The department shall contract for an independent statewide evaluation of the effectiveness of programs funded pursuant to this article to be prepared and submitted to the Legislature. The evaluation shall include a comparison of outcomes for participating pupils and similarly situated pupils who did not participate in the program. A report shall be submitted to the Governor and the Legislature on or before October 1, 2011, providing data that includes, but is not limited to, all of the following:

(1) Data collected pursuant to Section 8484.

(2) Data adopted through the process outlined in subdivision (b) of Section 8421.5 and subdivision (g) of Section 8482.4.

(3) Number and type of sites and grantees participating in the program.

(4) Pupil program attendance, as reported semiannually, and pupil schoolday attendance, as reported annually.

(5) Pupil program participation rates.

(6) Quality of program drawing on the research of the Academy of Sciences on critical features of programs that support healthy youth development.

(7) The participation rates of local educational agencies.

(8) Local partnerships.

(9) The academic performance of participating pupils in English language arts and mathematics, as measured by the results of the Standardized Testing and Reporting (STAR) Program established pursuant to Section 60640.

(d) A final report shall be submitted to the Governor and the Legislature on or before December 1, 2011. The final report shall include, but not be limited to, all of the following:

(1) Updated data on the measures specified in subdivision (b), including, but not limited to, changes in those measures.

(2) The prevalence and frequency of activities included in funded programs.

SEC. 59. Section 8490.1 of the Education Code is amended to read:

8490.1. For purposes of this article, the following definitions shall apply:

(a) "After school program" means *the* After School Education and Safety Program (ASES), *the* 21st Century High School After School Safety and Enrichment for Teens (High School ASSETs) program, and other qualified out-of-school time programs that serve schoolage children outside of regular school hours, including before school and on weekends.

(b) "DASH recognition program" means the Distinguished After School Health Recognition Program ~~enacted~~ *established* pursuant to this article.

(c) "Program attendee" means a person enrolled in an after school program.

(d) "Screen time" means time spent viewing or working on television, videos, computers, and hand-held devices, with or without Internet access.

SEC. 60. Section 9004 of the Education Code is amended to read:

9004. The ~~State Department of Education~~ *department* shall select grant recipients from the northern, southern, and central regions of the state and from urban, rural, and suburban areas, so that the recipients are broadly ~~representatives~~ *representative* of the state.

SEC. 61. Chapter 17 (commencing with Section 11600) of Part 7 of Division 1 of Title 1 of the Education Code is repealed.

SEC. 62. The heading of Article 2 (commencing with Section 12210) of Chapter 2 of Part 8 of Division 1 of Title 1 of the Education Code is repealed.

~~Article 2. Administration of Federal Funds by Chancellor~~

SEC. 63. Section 17199.4 of the Education Code is amended to read:

17199.4. (a) Notwithstanding any other law, any participating party, in connection with securing financing or refinancing of projects, or working capital pursuant to this chapter, may, in

accordance with this section, elect to provide for funding, in whole or in part, one or more of the following:

(1) Payments on authority bonds.

(2) Payments under credit enhancement or liquidity support agreements in connection with authority bonds.

(3) Amounts pledged or assigned under one or more pledges or assignments to pay authority bonds or obligations under these credit enhancement or liquidity support agreements.

(4) Payments to fund reserves available to pay any of the payments described in paragraphs (1), (2), and (3), exclusively until paid.

(5) Fees and charges contemplated by the instruments of the authority, trustees, tender agents, remarketing agents, credit enhancement and liquidity support providers, and service providers.

(6) Any other costs necessary or incidental to any financing or refinancing conducted under this chapter.

(b) The payments made pursuant to subdivision (a) may be in connection with a financing or refinancing benefiting the participating party itself, one or more other participating parties, or any combination thereof.

(c) To participate under this section, the participating party shall do all of the following:

(1) Elect to participate by an action of its governing board taken in compliance with the rules of that board.

(2) Provide written notice to the Controller, no later than the date of the issuance of the bonds or 60 days before the next payment, whichever is later, of all of the following:

(A) Its election to participate.

(B) A schedule of the payments subject to that election.

(C) The payee or payees of those payments, or the trustee or agent on their behalf to receive those payments.

~~(i)~~

(D) (i) Payment delivery instructions, which may be by wire transfer or other method approved by the Controller.

(ii) If the method of payment delivery is wire transfer, the participating party shall complete and submit the appropriate authorization form as prescribed by the Controller.

(d) The participating party may amend, supplement, or restate the notice required pursuant to paragraph (2) of subdivision (c) for any reason, including, but not necessarily limited to, providing

for new or increased payments. The participating party shall certify in the notice and in any amendment, supplement, or restatement of the notice that each and every payment reflected in the schedule is a payment described in subdivision (a) and the amounts scheduled do not exceed the actual or reasonably estimated payment obligations to be funded pursuant to this section. The participating party shall also represent in the notice that it is not submitting the notice for the purpose of accelerating a participating party's receipt of its apportionments. Nothing in this section prohibits transfer by the recipient of an apportionment under this section to the participating party submitting the notice of the excess apportionment above the amount needed to fund actual payments where the excess resulted from erroneous estimation of scheduled payments or otherwise.

(e) Upon receipt of the notice required by paragraph (2) of subdivision (c), the Controller shall make an apportionment to the indicated recipient on the date, or during the period, shown in the schedule in accordance with the following:

(1) If the participating party requests transfers in full as scheduled, in the amount of the scheduled transfer or such lesser amount as is available from the sources indicated in subdivision (f).

(2) If the participating party does not request transfers in full as scheduled, in the amount of the anticipated deficiency for the purpose of making the required payment indicated in a written request of the participating party to the Controller and in the amount of the actual shortfall in payment indicated in a written request of the recipient or the participating party to the Controller or ~~the~~ *whatever* lesser amount ~~that~~ is available from the sources indicated in subdivision (f).

(3) To the extent funds available for an apportionment are insufficient to pay the amount set forth in a schedule in any period, the Controller shall, if and as requested in the notice, reschedule the payment of all or a portion of the deficiency to a subsequent period.

(4) In making apportionments under this section, the Controller may rely conclusively and without liability on any notice or request delivered under this section, including any *notice of request* delivered ~~prior to~~ *before* enactment of the act that adds this paragraph. The Controller may make, but is not obligated to make,

apportionments not reflected on a notice or on an amended, supplemented, or restated notice delivered under this section that the Controller receives less than 20 days ~~prior to~~ *before* when the apportionment would otherwise be required.

(f) The Controller shall make an apportionment under this section only from moneys designated for apportionment to the participating party delivering the notice, and only from one or both of the following:

(1) Any funding apportioned for purposes of revenue limits or the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, to a school district or county office of education without regard to the specific funding source of the apportionment.

(2) Any funding apportioned for purposes of the charter school block grant or the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, to a charter school without regard to the specific funding source of the apportionment.

(g) (1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party, and shall be included in the computation of allocation, limit, entitlement, or apportionment for the participating party.

(2) The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned by the Controller pursuant to this section.

(h) (1) The authority may require participation under this section under the terms of any financing or refinancing under this chapter to provide for one or more of the payments described in paragraphs (1), (2), (3), and (4) of subdivision (a). The authority may impose limits on new participation under this section. The authority may require participating parties to apply to the authority for participation. If the authority limits participation under this section, the authority shall consider each of the following priorities in making participation available:

(A) First priority shall be given to participating parties that apply for funding for instructional classroom space under this chapter.

(B) Second priority shall be given to participating parties that apply for funding of modernization of instructional classroom space under this chapter.

(C) Third priority shall be given to participating parties that apply for funding under this chapter for any other eligible costs, as defined in Section 17173.

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17060) of Chapter 12, shall not be subject to the priorities set forth in paragraph (1).

(i) This section shall not be construed to make the State of California liable for any payments within the meaning of Section 1 of Article XVI of the California Constitution.

(j) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.

(k) This section does not obligate the State of California to make available the sources of apportionment under subdivision (f) in any amount or at any time or, except as provided in this section, to fund any payment described in this section. The addition of this subdivision is intended solely to clarify existing law.

SEC. 64. Section 17592.74 of the Education Code is amended to read:

17592.74. Notwithstanding any other law, the funds provided to school districts from the School Facilities Emergency Repair Account pursuant to this article for the purpose of emergency repair grants shall not be deposited into a school district deferred maintenance fund for purposes ~~established pursuant to~~ *described in* Section 17582.

SEC. 65. The heading of Chapter 11 (commencing with Section 19900) of Part 11 of Division 1 of Title 1 of the Education Code, as enacted by Chapter 1010 of the Statutes of 1976, is amended and renumbered to read:

CHAPTER ~~11.~~*10.5.* MISCELLANEOUS PROVISIONS

SEC. 66. The heading of Article 1 (commencing with Section 32200) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code is repealed.

~~Article 1. Fire Drills~~

SEC. 67. Section 32282 of the Education Code is amended to read:

32282. (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A school district or county office of education may work with the Office of Emergency Services and the *Alfred E. Alquist* Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The school district or county office of education shall cooperate with the public agency in furnishing and maintaining the services as the school district or county office of education may deem necessary to meet the needs of the community.

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel," if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. ~~Any~~ *A* schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(G) Procedures for safe ingress and egress of pupils, parents, and school employees to and from school.

(H) A safe and orderly environment conducive to learning at the school.

(I) The rules and procedures on school discipline adopted pursuant to Sections 35291 and 35291.5.

(b) It is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

(c) Each schoolsite council or school safety planning ~~committee~~ *committee,* in developing and updating a comprehensive school safety ~~plan~~ *plan,* shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

(d) The comprehensive school safety plan may be evaluated and amended, as needed, by the school safety planning committee, but shall be evaluated at least once a year, to ensure that the comprehensive school safety plan is properly implemented. An updated file of all safety-related plans and materials shall be readily available for inspection by the public.

(e) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying.

(f) The comprehensive school safety plan, as written and updated by the schoolsite council or school safety planning committee, shall be submitted for approval ~~under~~ *pursuant to* subdivision (a) of Section 32288.

SEC. 68. Section 32289 of the Education Code, as added by Section 1 of Chapter 272 of the Statutes of 2004, is repealed.

~~32289. A complaint of noncompliance with the school safety planning requirements of Title IV of the federal No Child Left Behind Act of 2001, 20 U.S.C. Sec. 7114(d)(7), may be filed with the department under the Uniform Complaint Procedures as set forth in Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations.~~

SEC. 69. Section 32289 of the Education Code, as added by Section 29 of Chapter 896 of the Statutes of 2004, is amended to read:

32289. A complaint of noncompliance with the school safety planning requirements of Title IV of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 7114 (d)(7)) may be filed with the department under the Uniform Complaint Procedures as set forth in Chapter 5.1 (commencing with ~~Sections~~ *Section* 4600) of Title 5 of the California Code of Regulations.

SEC. 70. The heading of Article 7 (commencing with Section 33390) of Chapter 3 of Part 20 of Division 2 of Title 2 of the Education Code is repealed.

~~Article 7. California Maritime Academy~~

SEC. 71. Section 35035 of the Education Code is amended to read:

35035. The superintendent of each school district shall, in addition to other powers and duties granted to or imposed upon him or her:

(a) Be the chief executive officer of the governing board of the school district.

(b) Except in a school district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget, prepare and submit to the governing board of the school district, at the time it may direct, the budget of the school district for the next ensuing school year, and revise and take other action in connection with the budget as the governing board of the school district may desire.

(c) Be responsible for the preparation and submission to the governing board of the school district, at the time the governing board may direct, the local control and accountability plan of the school district for the subsequent school year, and revise and take other action in connection with the local control and accountability plan as the governing board of the school district may desire.

(d) Except in a school district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, ensure that the local control and accountability plan is implemented.

(e) Subject to the approval of the governing board of the school district, assign all employees of ~~school~~ the *school* district employed in positions requiring certification ~~qualifications,~~ *qualifications* to

the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the school district when the superintendent concludes that the transfer is in the best interest of the school district.

(f) Upon ~~adoption,~~ *adoption* by the school district ~~board,~~ *board* of a school district policy concerning transfers of teachers from one school to another school within the school district, have authority to transfer teachers consistent with that policy.

(g) Determine that each employee of the school district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.

(h) Enter into contracts for and on behalf of the school district pursuant to Section 17604.

(i) Submit financial and budgetary reports to the governing board of the school district as required by Section 42130.

SEC. 72. Section 35735.1 of the Education Code is amended to read:

35735.1. (a) The local control funding formula allocation per unit of average daily attendance for newly organized school districts shall be equal to the total of the amount of the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance of the affected school districts computed pursuant to the computations set forth below. The following computations shall be made to determine the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance for ~~the~~ newly organized school districts:

(1) Based on the current information available for each affected school district for the second principal apportionment period for the fiscal year before the fiscal year in which the reorganization is to become effective, multiply the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance for that school district by the number of units of average daily attendance for that school district that the county superintendent of schools determines will be included in the proposed school district.

(2) Add the amounts calculated pursuant to paragraph (1) and divide that sum by the number of units of average daily attendance in the newly organized school districts.

(b) The amount determined pursuant to subdivision (a) shall be the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance for ~~the~~ newly organized school districts.

(c) The average daily attendance of a newly organized school district, for purposes of Sections 42238.02 and 42238.03, shall be the average daily attendance that is attributable to the area reorganized for the fiscal year before the fiscal year in which the new school district becomes effective for all purposes.

(d) Notwithstanding this section, commencing with the 2013–14 fiscal year, a newly reorganized school district shall receive state-aid funding pursuant to paragraph (3) of subdivision (b) of Section 42238.03 or the total combined per pupil funding amount received by each school district pursuant to paragraphs (1) and (2) of subdivision (a) of Section 42238.03 for the fiscal year before the fiscal year in which the new school district becomes effective for all purposes, whichever is greater.

(e) Notwithstanding any other law, this section shall not be subject to waiver by the state board pursuant to Section 33050 or by the Superintendent.

(f) Upon a determination that all school districts or charter schools equal or exceed the local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, for all school districts and charter schools, this section shall not apply and ~~the~~ newly reorganized school ~~district~~ *districts* shall receive an allocation equal to the amount calculated under Section 42238.02 in that fiscal year and future fiscal years.

SEC. 73. The heading of Chapter 3 (commencing with Section 37400) of Part 22 of Division 3 of Title 2 of the Education Code is repealed.

~~Chapter 3. Year-Round School Operation~~

SEC. 74. Section 38047.5 of the Education Code is amended and renumbered to read:

~~38047.5.~~

39831.1. The ~~State Board of Education~~ *state board* shall adopt regulations to require a passenger in a schoolbus equipped with passenger restraint systems in accordance with Section 27316 of the Vehicle Code to use a passenger restraint system so that the passenger is properly restrained by that system.

SEC. 75. Section 38047.6 of the Education Code is amended and renumbered to read:

~~38047.6.~~

39831.2. The ~~State Board of Education~~ *state board* shall adopt regulations to require a passenger in a school pupil activity bus equipped with passenger restraint systems in accordance with Section 27316.5 of the Vehicle Code to use a passenger restraint system so that the passenger is properly restrained by that system.

SEC. 76. Section 39672 of the Education Code is amended and renumbered to read:

~~39672.~~

38001.6. (a) Every school peace officer first employed by a K-12 public school district before July 1, 1999, shall, in order to retain his or her employment, fulfill both of the following conditions:

~~(a)~~

(1) The employee shall submit to the *school* district one copy of his or her fingerprints on forms prescribed by the Department of Justice. The Department of Justice shall forward this copy to the United States Federal Bureau of Investigation.

~~(b)~~

(2) The employee shall be determined to be a person who is not prohibited from employment by a school district pursuant to Sections 44237 and 45122.1, and, if the employee is required to carry a firearm, shall be determined by the Department of Justice to be a person who is not prohibited from possessing a firearm.

~~The~~

(b) The Department of Justice may participate in the National Instant Criminal Background Check System (NICS) in lieu of submitting fingerprints to the United States Federal Bureau of Investigation in order to meet the requirements of this section relating to firearms.

SEC. 77. Section 41020 of the Education Code is amended to read:

41020. (a) It is the intent of the Legislature to encourage sound fiscal management practices among local educational agencies for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the school district, county, and state levels.

(b) (1) Not later than the first day of May of each fiscal year, each county superintendent of schools shall provide for an audit of all funds under his or her jurisdiction and control and the governing board of each local educational agency shall either provide for an audit of the books and accounts of the local educational agency, including an audit of income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing.

(2) A contract to perform the audit of a local educational agency that has a disapproved budget or has received a negative certification on any budget or interim financial report during the current fiscal year or either of the two preceding fiscal years, or for which the county superintendent of schools has otherwise determined that a lack of going concern exists, is not valid unless approved by the responsible county superintendent of schools and the governing board.

(3) If the governing board of a local educational agency has not provided for an audit of the books and accounts of the local educational agency by April 1, the county superintendent of schools having jurisdiction over the local educational agency shall provide for the audit of each local educational agency.

(4) An audit conducted pursuant to this section shall comply fully with the Government Auditing Standards issued by the Comptroller General of the United States.

(5) For purposes of this section, “local educational agency” does not include community colleges.

(c) Each audit conducted in accordance with this section shall include all funds of the local educational agency, including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the local educational agency. Each audit shall also include an audit of pupil attendance procedures. Each audit shall include a determination of whether funds were expended pursuant to a local control and accountability plan or an approved annual update to a local control and

accountability plan pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4.

(d) All audit reports for each fiscal year shall be developed and reported using a format established by the Controller after consultation with the Superintendent and the Director of Finance.

(e) (1) The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each school district from school district funds.

(2) The cost of the audit provided for by a governing board of a local educational agency shall be paid from local educational agency funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

(f) (1) The audits shall be made by a certified public accountant or a public accountant, licensed by the California Board of Accountancy, and selected by the local educational agency, as applicable, from a directory of certified public accountants and public accountants deemed by the Controller as qualified to conduct audits of local educational agencies, which shall be published by the Controller not later than December 31 of each year.

(2) Commencing with the 2003–04 fiscal year and except as provided in subdivision (d) of Section 41320.1, it is unlawful for a public accounting firm to provide audit services to a local educational agency if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local educational agency in each of the six previous fiscal years. The Education Audits Appeal Panel may waive this requirement if the panel finds that no otherwise eligible auditor is available to perform the audit.

(3) It is the intent of the Legislature that, notwithstanding paragraph (2), the rotation within public accounting firms conform to provisions of the federal Sarbanes-Oxley Act of 2002 (Public Law 107-204; 15 U.S.C. Sec. 7201 et seq.), and upon release of the report required by the act of the Comptroller General of the United States addressing the mandatory rotation of registered public accounting firms, the Legislature intends to reconsider the provisions of paragraph (2). In determining which certified public

accountants and public accountants shall be included in the directory, the Controller shall use the following criteria:

(A) The certified public accountants or public accountants shall be in good standing as certified by the Board of Accountancy.

(B) The certified public accountants or public accountants, as a result of a quality control review conducted by the Controller pursuant to Section 14504.2, shall not have been found to have conducted an audit in a manner constituting noncompliance with subdivision (a) of Section 14503.

(g) (1) The auditor's report shall include each of the following:

(A) A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1.

(B) A summary of audit exceptions and management improvement recommendations.

(C) Each audit of a local educational agency shall include an evaluation by the auditor on whether there is substantial doubt about the ability of the local educational agency to continue as a going concern for a reasonable period of time. This evaluation shall be based on the Statement on Auditing Standards (SAS) No. 59, as issued by the AICPA regarding disclosure requirements relating to the ability of the entity to continue as a going concern.

(2) To the extent possible, a description of correction or plan of correction shall be incorporated in the audit report, describing the specific actions that are planned to be taken, or that have been taken, to correct the problem identified by the auditor. The descriptions of specific actions to be taken or that have been taken shall not solely consist of general comments such as "will implement," "accepted the recommendation," or "will discuss at a later date."

(h) Not later than December 15, a report of each local educational agency audit for the preceding fiscal year shall be filed with the county superintendent of schools of the county in which the local educational agency is located, the department, and the Controller. The Superintendent shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by those audit reports.

(i) (1) Commencing with the 2002–03 audit of local educational agencies pursuant to this section and subdivision (d) of Section

41320.1, each county superintendent of schools shall be responsible for reviewing the audit exceptions contained in an audit of a local educational agency under his or her jurisdiction related to attendance, inventory of equipment, internal control, and any miscellaneous items, and determining whether the exceptions have been either corrected or an acceptable plan of correction has been developed.

(2) Commencing with the 2004–05 audit of local educational agencies pursuant to this section and subdivision (d) of Section 41320.1, each county superintendent of schools shall include in the review of audit exceptions performed pursuant to this subdivision those audit exceptions related to use of instructional materials program funds, teacher misassignments pursuant to Section 44258.9, information reported on the school accountability report card required pursuant to Section 33126 and shall determine whether the exceptions are either corrected or an acceptable plan of correction has been developed.

(j) Upon submission of the final audit report to the governing board of each local educational agency and subsequent receipt of the audit by the county superintendent of schools having jurisdiction over the local educational agency, the county office of education shall do all of the following:

(1) Review audit exceptions related to attendance, inventory of equipment, internal control, and other miscellaneous exceptions. Attendance exceptions or issues shall include, but not be limited to, those related to local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, and independent study.

(2) If a description of the correction or plan of correction has not been provided as part of the audit required by this section, ~~then~~ the county superintendent of schools shall notify the local educational agency and request the governing board of the local educational agency to provide to the county superintendent of schools a description of the corrections or plan of correction by March 15.

(3) Review the description of correction or plan of correction and determine its adequacy. If the description of the correction or plan of correction is not adequate, the county superintendent of schools shall require the local educational agency to resubmit that portion of its response that is inadequate.

(k) Each county superintendent of schools shall certify to the Superintendent and the Controller, not later than May 15, that his or her staff has reviewed all audits of local educational agencies under his or her jurisdiction for the prior fiscal year, that all exceptions that the county superintendent was required to review were reviewed, and that all of those exceptions, except as otherwise noted in the certification, have been corrected by the local educational agency or that an acceptable plan of correction has been submitted to the county superintendent of schools. In addition, the county superintendent shall identify, by local educational agency, any attendance-related audit exception or exceptions involving state funds, and require the local educational agency to which the audit exceptions were directed to submit appropriate reporting forms for processing by the Superintendent.

(*l*) In the audit of a local educational agency for a subsequent year, the auditor shall review the correction or plan or plans of correction submitted by the local educational agency to determine if the exceptions have been resolved. If not, the auditor shall immediately notify the appropriate county office of education and the department and restate the exception in the audit report. After receiving that notification, the department shall either consult with the local educational agency to resolve the exception or require the county superintendent of schools to follow up with the local educational agency.

(m) (1) The Superintendent ~~shall be~~ *is* responsible for ensuring that local educational agencies have either corrected or developed plans of correction for any one or more of the following:

(A) All federal and state compliance audit exceptions identified in the audit.

(B) ~~Any exceptions~~ *Exceptions* that the county superintendent *of schools* certifies as of May 15 have not been corrected.

(C) ~~Any repeat~~ *Repeat* audit exceptions that are not assigned to a county superintendent *of schools* to correct.

(2) In addition, the Superintendent ~~shall be~~ *is* responsible for ensuring that county superintendents of schools and each county board of education that serves as the governing board of a local educational agency either correct all audit exceptions identified in the audits of county superintendents of schools and of the local educational agencies for which the county boards of education

serve as the governing boards or develop acceptable plans of correction for those exceptions.

(3) The Superintendent shall report annually to the Controller on his or her actions to ensure that school districts, county superintendents of schools, and each county board of education that serves as the governing board of a school district have either corrected or developed plans of correction for any of the exceptions noted pursuant to paragraph (1).

(n) To facilitate correction of the exceptions identified by the audits issued pursuant to this section, ~~commencing with 2002–03 audits pursuant to this section,~~ the Controller shall require auditors to categorize audit exceptions in each audit report in a manner that will make it clear to both the county superintendent of schools and the Superintendent which exceptions they are responsible for ensuring the correction of by a local educational agency. In addition, the Controller annually shall select a sampling of county superintendents of schools and perform a followup of the audit resolution process of those county superintendents of schools and report the results of that followup to the Superintendent and the county superintendents of schools that were reviewed.

(o) County superintendents of schools shall adjust subsequent local property tax requirements to correct audit exceptions relating to local educational agency tax rates and tax revenues.

(p) If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for the audit pursuant to this section, the Controller shall make arrangements for the audit and the cost of the audit shall be paid from local educational agency funds or the county school service fund, as the case may be.

(q) Audits of regional occupational centers and programs are subject to ~~the provisions of~~ this section.

(r) This section does not authorize examination of, or reports on, the curriculum used or provided for in any local educational agency.

(s) Notwithstanding any other ~~provision of~~ law, a nonauditing, management, or other consulting service to be provided to a local educational agency by a certified public accounting firm while the certified public accounting firm is performing an audit of the agency pursuant to this section must be in accord with Government

Accounting Standards, Amendment No. 3, as published by the United States General Accounting Office.

SEC. 78. Section 41207.3 of the Education Code, as added by Section 11 of Chapter 12 of the Third Extraordinary Session of the Statutes of 2009, is amended and renumbered to read:

~~41207.3.~~

41207.25. (a) If the Superintendent and the Director of Finance jointly determine that, for the 2008–09 fiscal year, the state has applied moneys for the support of school districts and community college districts in an amount that exceeds the minimum amount required for that fiscal year pursuant to Section 8 of Article XVI of the California Constitution, the excess, up to one billion one hundred million five hundred ninety thousand dollars ($1,100,590,000), shall be deemed, as of June 30 of that fiscal year, a payment in satisfaction of the outstanding balance of the minimum funding obligation under that section for the 2002–03 and 2003–04 fiscal years in accordance with the following:

(1) The first four hundred eighty-three million sixteen thousand dollars ($483,016,000) in payment of the outstanding balance of the minimum funding obligation for the 2002–03 fiscal year.

(2) The next six hundred seventeen million five hundred seventy-four thousand dollars ($617,574,000) in payment of the outstanding balance of the minimum funding obligation for the 2003–04 fiscal year.

(b) For purposes of this section, the outstanding balance of the minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for a fiscal year is the amount, if any, by which the amount required to be applied by the state for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution, including any maintenance factor that should have been allocated in that fiscal year pursuant to subdivision (e) of Section 8 of Article ~~XVI,~~ *XVI of the California Constitution,* exceeds the amount applied by the state for the support of school districts and community college districts for that fiscal year.

(c) The amounts allocated pursuant to this section shall be deemed, for purposes of Section 8 of Article XVI of the California Constitution, to be appropriations made and allocated in the fiscal year in which the deficiencies resulting in the outstanding balance

were incurred. When the amount determined to be owed for each such fiscal year is fully allocated pursuant to this subdivision, the data used in the computations made under this section with regard to the total amount owed by the state for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for that fiscal year, including as much of the maintenance factor for that fiscal year determined pursuant to subdivision (d) of Section 8 of Article XVI *of the California Constitution* as has been allocated as required by subdivision (e) of Section 8 of Article XVI *of the California Constitution* by virtue of the allocations made under this section, shall be deemed certified for purposes of Section 41206.

(d) The amount described in subdivision (a) shall be deemed a payment in full satisfaction of the amounts owed pursuant to Section 41207.

SEC. 79. Section 41851.1 of the Education Code, as added by Section 11 of Chapter 82 of the Statutes of 1989, is repealed.

~~41851.1. (a) For the 1989–90 fiscal year, from Section A of the State School Fund, the Superintendent of Public Instruction shall apportion to each school district or county superintendent of schools, as appropriate, an amount computed pursuant to this section. School districts and county superintendents of schools that provide transportation services by means of a joint powers agreement, a cooperative pupil transportation program, or a consortium shall receive transportation allowances pursuant to this section.~~

~~(b) For the 1989–90 fiscal year, each school district, joint powers agency, cooperative pupil transportation program, or consortium shall receive a transportation apportionment equal to the greater of the following:~~

~~(1) Sixty-five percent of the prior year's approved transportation costs.~~

~~(2) The prior year's transportation allowance.~~

~~(c) For the 1989–90 fiscal year, each county office of education shall receive a transportation apportionment equal to the greater of the following:~~

~~(1) Eighty percent of the prior year's approved transportation costs.~~

~~(2) The prior year's transportation allowance.~~

~~(d) In the event that funds appropriated for the purposes of this section are not sufficient to fully fund the formula established by that section, the amounts apportioned shall be reduced on a proportionate basis.~~

SEC. 80. Section 42127 of the Education Code is amended to read:

42127. (a) On or before July 1 of each year, the governing board of each school district shall accomplish the following:

(1) Hold a public hearing conducted in accordance with Section 42103 on the budget to be adopted for the subsequent fiscal year. The budget to be adopted shall be prepared in accordance with Section 42126. The agenda for that hearing shall be posted at least 72 hours before the public hearing and shall include the location where the budget will be available for public inspection.

(2) (A) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board of the school district shall file that budget with the county superintendent of schools. The budget and supporting data shall be maintained and made available for public review. If the governing board of the school district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made. For the 2014–15 fiscal year and each fiscal year thereafter, the governing board of the school district shall not adopt a budget before the governing board of the school district adopts a local control and accountability plan, if an existing local control and accountability plan or annual update to a local control and accountability plan is not effective for the budget year. The governing board of a school district shall not adopt a budget that does not include the expenditures necessary to implement the local control and accountability plan or the annual update to a local control and accountability plan that is effective for the budget year.

(B) Commencing with ~~budgets~~ *the budget* adopted for the 2015–16 fiscal year, the governing board of a school district that proposes to adopt a budget, or revise a budget pursuant to subdivision (e), that includes a combined assigned and unassigned ending fund balance in excess of the minimum recommended

reserve for economic uncertainties adopted by the state board pursuant to subdivision (a) of Section 33128, shall, at the public hearing held pursuant to paragraph (1), provide all of the following for public review and discussion:

(i) The minimum recommended reserve for economic uncertainties for each fiscal year identified in the budget.

(ii) The combined assigned and unassigned ending fund balances that are in excess of the minimum recommended reserve for economic uncertainties for each fiscal year identified in the budget.

(iii) A statement of reasons that substantiates the need for an assigned and unassigned ending fund balance that is in excess of the minimum recommended reserve for economic uncertainties for each fiscal year that the school district identifies an assigned and unassigned ending fund balance that is in excess of the minimum recommended reserve for economic uncertainties, as identified pursuant to clause (ii).

(C) The governing board of a school district shall include the information required pursuant to subparagraph (B) in its budgetary submission each time it files an adopted or revised budget with the county superintendent of schools. The information required pursuant to subparagraph (B) shall be maintained and made available for public review.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent of schools or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the school district for purposes that exceed apportionments to the school district pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. ~~Each~~ *The* school district shall provide all data needed by the county superintendent of schools or the county auditor to compute the amounts. On or before August 15, the county superintendent of schools shall transmit the amounts computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate computed to the *county* board of supervisors for adoption.

(c) The county superintendent of schools shall do all of the following:

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets. The county superintendent of schools shall identify, if necessary, technical corrections that are required to be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the school district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the school district to satisfy its multiyear financial commitments. In addition to his or her own analysis of the budget of ~~each~~ *the* school district, the county superintendent of schools shall review and consider studies, reports, evaluations, or audits of the school district that were commissioned by the school district, the county superintendent of schools, the Superintendent, and state control agencies and that contain evidence that the school district is showing fiscal distress under the standards and criteria adopted in Section ~~33127~~ *33127,* or that contain a finding by an external reviewer that more than 3 of the 15 most common predictors of a school district needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team, are present. The county superintendent of schools shall either conditionally approve or disapprove a budget that does not provide adequate assurance that the school district will meet its current and future obligations and resolve any problems identified in studies, reports, evaluations, or audits described in this paragraph.

(3) Determine whether the adopted budget includes the expenditures necessary to implement the local control and accountability plan or annual update to the local control and accountability plan approved by the county superintendent of schools.

(4) Determine whether the adopted budget includes a combined assigned and unassigned ending fund balance that exceeds the minimum recommended reserve for economic uncertainties. If the adopted budget includes a combined assigned and unassigned ending fund balance that exceeds the minimum recommended reserve for economic uncertainties, the county superintendent of schools shall verify that the school district complied with the

requirements of subparagraphs (B) and (C) of paragraph (2) of subdivision (a).

(d) (1) On or before August 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district. For the 2014–15 fiscal year and each fiscal year thereafter, the county superintendent of schools shall disapprove a budget if the county superintendent of schools determines that the budget does not include the expenditures necessary to implement a local control and accountability plan or an annual update to the local control and accountability plan approved by the county superintendent of schools. If the governing board of a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall develop, at school district expense, a budget for that school district by September 15 and transmit that budget to the governing board of the school district. The budget prepared by the county superintendent of schools shall be deemed adopted, unless the county superintendent of schools approves any modifications made by the governing board of the school district. The budget prepared by the county superintendent of schools shall also comply with the requirements of subparagraph (B) of paragraph (2) of subdivision (a). The approved budget shall be used as a guide for the school district's priorities. The Superintendent shall review and certify the budget approved by the ~~county.~~ *county superintendent of schools.* If, pursuant to the review conducted pursuant to subdivision (c), the county superintendent of schools determines that the adopted budget for a school district does not satisfy paragraph (1), (2), (3), or (4) of that subdivision, he or she shall conditionally approve or disapprove the budget and, not later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations, including, but not limited to, the amounts of any budget adjustments needed before he or she can approve that budget. The county superintendent of schools may assign a fiscal adviser to assist the school district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations,

subject to the requirement that the committee report its findings to the county superintendent of schools no later than August 20.

(2) Notwithstanding any other provision of this article, for the 2014–15 fiscal year and each fiscal year thereafter, the budget shall not be adopted or approved by the county superintendent of schools before a local control and accountability plan or update to an existing local control and accountability plan for the budget year is approved.

(3) If the adopted budget of a school district is conditionally approved or disapproved pursuant to paragraph (1), on or before September 8, the governing board of the school district, in conjunction with the county superintendent of schools, shall review and respond to the recommendations of the county superintendent of schools at a regular meeting of the governing board of the school district. The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of those recommendations.

(e) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent identifying all school districts for which budgets may be disapproved.

(f) (1) The county superintendent of schools shall examine the revised budget as provided in paragraph (3) of subdivision (d) to determine whether it (A) complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets, (B) allows the school district to meet its financial obligations during the fiscal year, (C) satisfies all conditions established by the county superintendent of schools in the case of a conditionally approved budget, (D) is consistent with a financial plan that will enable the school district to satisfy its multiyear financial commitments, *and (E) complies with the requirements of subparagraph (B) of paragraph (2) of subdivision (a),* and, not later than October 8, shall approve or disapprove the revised ~~budget, and (E) whether the revised budget complies with the requirements of subparagraph (B) of paragraph (2) of subdivision (a).~~ *budget.* If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1, unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed and the

department approves the waiver after determining that a budget review committee is not necessary. Upon the grant of a waiver, the county superintendent of schools immediately has the authority and responsibility provided in Section 42127.3. Upon approving a waiver of the budget review committee, the department shall ensure that a balanced budget is adopted for the school district by November 30. If ~~no~~ *a* budget is *not* adopted by November 30, the Superintendent may adopt a budget for the school district. The Superintendent shall report to the Legislature and the Director of Finance by December 10 if any school district, including a school district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the reasons why a budget has not been adopted by the deadline, the steps being taken to finalize budget adoption, the date the adopted budget is anticipated, and whether the Superintendent has or will exercise his or her authority to adopt a budget for the school district.

(2) Notwithstanding any other law, for the 2014–15 fiscal year and each fiscal year thereafter, if the county superintendent of schools disapproves the budget for the sole reason that the county superintendent of schools has not approved a local control and accountability plan or an annual update to the local control and accountability plan filed by the governing board of the school district pursuant to Section 52070, the county superintendent of schools shall not call for the formation of a budget review committee pursuant to Section 42127.1.

(g) Not later than October 8, the county superintendent of schools shall submit a report to the Superintendent identifying all school districts for which budgets have been disapproved or budget review committees waived. The report shall include a copy of the written response transmitted to each of those school districts pursuant to paragraph (1) of subdivision (d).

(h) Not later than 45 days after the Governor signs the annual Budget Act, the school district shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

(i) ~~Any~~ *A* school district for which the county board of education serves as the governing board of the school district is not subject

to subdivisions (c) to (h), inclusive, but is governed instead by the budget procedures set forth in Section 1622.

SEC. 81. Section 42238.15 of the Education Code is amended to read:

42238.15. (a) Notwithstanding any other law, and in lieu of any inflation or cost-of-living adjustment otherwise authorized for ~~any of~~ the programs enumerated in subdivision (b), state funding for the programs enumerated in subdivision (b) shall be increased annually by the product of the following:

(1) The sum of 1.0 plus the percentage change determined under paragraph (2) of subdivision (d) of Section 42238.02.

(2) The sum of 1.0 plus the percentage of increase, from the prior fiscal year to the current fiscal year, in each of the workload factors described in subdivision (b).

(b) The programs for which annual state funding increases are determined under this section, and the factors used to measure workload for each of those programs, are as follows:

(1) Special education programs and services, ~~as~~ *with workload* measured by the regular second principal apportionment average daily attendance for kindergarten and grades 1 to 12, inclusive.

(2) Child care and development programs, and preschool programs, ~~as~~ *with workload* measured by the state population of children up to and including four years of age.

(c) Notwithstanding any other law, child care and development programs shall not receive a cost-of-living adjustment in the 2012–13, 2013–14, and 2014–15 fiscal years.

SEC. 82. Section 42800 of the Education Code is amended to read:

42800. (a) The governing board of a school district may, with the consent of the county superintendent of schools, establish a revolving cash fund for the use of the chief accounting officer of the school district, by adopting a resolution setting forth the necessity for the revolving cash fund, the officer for whom and the purposes for which the revolving cash fund shall be available, and the amount of the fund. The purposes for which the revolving cash fund shall be available shall include the purposes specified in Section 45167. Three certified copies of the resolution shall be transmitted to the county superintendent of schools. If he *or she* approves the establishment of the fund, the county superintendent *of schools* shall endorse his *or her* consent on the resolution and

return one copy to the governing ~~body~~ *board* of the school district, and transmit one copy to the county auditor.

(b) The maximum amount allowed for revolving cash funds established pursuant to subdivision (a) shall be the lesser of:

(1) Two percent of the *school* district's estimated expenditures for the current fiscal year, or

(2) A dollar amount limit of seventy-five thousand dollars ($75,000) for any elementary school or high school district and one hundred fifty thousand dollars ($150,000) for any unified school district for fiscal year 1990–91. The dollar amount limit for each school district shall, through the 2012–13 fiscal year, be increased annually by the percentage increase in the *school* district's revenue limit established by Section 42238, as that section read on January 1, 2013. The dollar amount limit for each school district shall thereafter be increased annually by the percentage increase in the school district's local control funding formula allocation established pursuant to Section 42238.02, as implemented pursuant to Section 42238.03.

SEC. 83. Section 44252 of the Education Code is amended to read:

44252. (a) (1) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(2) (A) The commission shall require an initial or renewal applicant who submits an initial or renewal application *for* his or her credential online, as part of the application process, to read and attest by electronic signature a statement that the applicant for the credential understands the duties imposed on a holder of a teaching credential or a services credential pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), including, but not limited to, the duty of a holder of a teaching credential or a services credential to report to any police department, sheriff's department, county probation department authorized to receive reports, or county welfare department, whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the holder of a teaching credential or a services credential knows or reasonably suspects has been the victim of child abuse or neglect.

(B) The commission shall require an initial applicant who submits an application in paper form, as part of the application process, to read and attest by signature a statement that the applicant understands the duties imposed on a holder of a teaching credential or a services credential pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), including, but not limited to, the duty of a holder of a teaching credential or a services credential to report to any police department, sheriff's department, county probation department authorized to receive reports, or county welfare department, whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the holder of a teaching credential or a services credential knows or reasonably suspects has been the victim of child abuse or neglect.

(C) The statement described in subparagraphs (A) and (B) shall be substantially in the following form:

"As a documentholder authorized to work with children, it is part of my professional and ethical duty to report every instance of child abuse or neglect known or suspected to have occurred to a child with whom I have professional contact.

I understand that I must report immediately, or as soon as practicably possible, by telephone to a law enforcement agency or a child protective agency, and will send a written report and any evidence relating to the incident within 36 hours of becoming aware of the abuse or neglect of the child.

I understand that reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person is not a substitute for making a mandated report to a law enforcement agency or a child protective agency.

I understand that the reporting duties are individual and no supervisor or administrator may impede or inhibit my reporting duties.

I understand that once I submit a report, I am not required to disclose my identity to my employer.

I understand that my failure to report an instance of suspected child abuse or neglect as required by the Child Abuse and Neglect

Reporting Act under Section 11166 of the Penal Code is a misdemeanor punishable by up to six months in jail or by a fine of one thousand dollars ($1,000), or by both that imprisonment and fine.

I acknowledge and certify that as a documentholder, I will fulfill all the duties required of a mandated reporter."

(b) The commission shall not issue initially a credential, permit, certificate, or renewal of an emergency credential to a person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5 or 44252.7. The commission shall exempt the following persons from the basic skills proficiency test requirement:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination administered by the state where the person is credentialed.

(4) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination that has been developed and administered by the school district offering that person employment, by cooperating school districts, or by the appropriate county office of education. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (h) of Section 44830. The applicant shall be granted a nonrenewable credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement pursuant to Section 44252.5.

(5) An applicant for a child care center permit or a permit authorizing service in a development center for the ~~handicapped, so long as~~ *handicapped if* the holder of the permit is not required to have a baccalaureate degree.

(6) The holder of a credential, permit, or certificate to teach, other than an emergency permit, who seeks an additional authorization to teach.

(7) An applicant for a credential to provide service in the health profession.

(8) An applicant who achieves scores on the writing, reading, and mathematics sections of the College Board SAT Reasoning Test, the enhanced ACT Test, or the California State University Early Assessment Program that are sufficient to waive the English placement test and the entry level mathematics examination administered by the California State University.

(9) An applicant for an eminence credential to be issued pursuant to Section 44262.

(c) (1) The Superintendent shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the Superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The advisory board also shall include representatives of school boards, school administrators, parents, and postsecondary educational institutions.

(2) The Superintendent shall adopt a normed test that the Superintendent determines will sufficiently test basic skills for purposes of this section.

(3) The Superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to ensure the effective implementation of this section.

(d) This section does not require the holders of, or applicants for, a designated subjects special subjects credential to pass the state basic skills proficiency test unless the requirements for the specific credential required the possession of a baccalaureate degree. The governing board of a school district, or the governing board of a consortium of school districts, or the governing board involved in a joint powers agreement, which employs a holder of a designated subjects special subjects credential, shall establish its own basic skills proficiency criteria for the holders of these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test.

(e) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

(f) (1) Each applicant to an approved credential program, unless exempted by subdivision (b), shall take the state basic skills proficiency test in order to provide both the prospective applicant and the program with information regarding the proficiency level of the applicant. Test results shall be forwarded to each California postsecondary educational institution to which the applicant has applied. The program shall use test results to ensure that, upon admission, each applicant receives appropriate academic assistance necessary to pass the state basic skills proficiency test. Persons residing outside the state shall take the test no later than the second available administration following their enrollment in a credential program.

(2) It is the intent of the Legislature that applicants for admission to teacher preparation programs not be denied admission on the basis of state basic skills proficiency test results.

SEC. 84. Section 44277 of the Education Code is amended to read:

44277. (a) The Legislature recognizes that effective professional growth must continue to occur throughout the careers of all teachers, in order that teachers remain informed of changes in pedagogy, subject matter, and pupil needs. In enacting this section, it is the intent of the Legislature to encourage teachers to engage in an individual program of professional growth that extends their content knowledge and teaching skills and for school districts to establish professional growth programs that give individual teachers a wide range of options to pursue as well as significant roles in determining the course of their professional growth.

(b) An individual program of professional growth may consist of activities that are aligned with the California Standards for the Teaching Profession that contribute to competence, performance, or effectiveness in the profession of education and the classroom assignments of the teacher. Acceptable activities may include, among other acceptable activities, the completion of courses offered by regionally accredited colleges and universities, including

instructor-led interactive courses delivered through online technologies; participation in professional conferences, workshops, teacher center programs, staff development programs, or a California Reading Professional Development ~~Program~~ *Institute program* operated pursuant to Article 2 (commencing with Section 99220) of Chapter 5 of Part 65; service as a mentor teacher; participation in school curriculum development projects; participation in systematic programs of observation and analysis of teaching; service in a leadership role in a professional organization; and participation in educational research or innovation efforts. Employing agencies and the bargaining agents of employees may negotiate to agree on the terms of programs of professional growth within their jurisdictions, provided that the agreements shall be consistent with this section.

(c) An individual program of professional growth may include a basic course in cardiopulmonary resuscitation, which includes training in the subdiaphragmatic abdominal thrust (also known as the "Heimlich maneuver") and meets or exceeds the standards established by the American Heart Association or the American Red Cross for courses in that subject or minimum standards for training programs established by the Emergency Medical Services Authority. An individual program of professional growth may also include a course in first aid that meets or exceeds the standards established by the American Red Cross for courses in that subject or minimum standards for training programs established by the Emergency Medical Services Authority.

(d) (1) If a local educational agency offers a program of professional growth for teachers, administrators, paraprofessional educators, or other classified employees involved in the direct instruction of pupils, the local educational agency shall evaluate professional learning based on all of the following criteria, and the local educational agency is encouraged to choose professional learning that meets any of the following criteria:

(A) Helps attract, grow, and retain effective educators.

(B) Is a part of every educator's experience in order to accelerate instructional improvement and support pupil learning.

(C) Is based on needs assessment of educators and tied to supporting pupil learning.

(D) Emphasizes the importance of meeting the needs of all pupils.

(E) Is grounded in a description of effective practice, as articulated in the California Standards for the Teaching Profession.

(F) Affords educators opportunities to engage with others to develop their craft, including, but not limited to, opportunities to increase their content knowledge.

(G) Ensures educators have adequate time to learn about, practice, reflect, adjust, critique, and share what educators need to ensure that all pupils, especially high-needs pupils, develop knowledge and lifelong learning skills that will help the pupils to be successful.

(H) Recognizes and utilizes expert ~~teacher and leader~~ *teaching and leadership* skills.

(I) Attends to collective growth needs as well as educators' individual growth needs.

(J) Contributes to a positive, collaborative, and supportive adult learning environment.

(K) Contributes to cycles of inquiry and improvement.

(L) Is not limited to a single instance, but supports educators through multiple iterations or engagements.

(M) Is based on a coherent and focused plan.

(2) Professional learning activities may also include collaboration time for teachers to develop new instructional lessons, to select or develop common formative assessments, to analyze pupil data, for mentoring projects for new teachers, or for extra support for teachers to improve practice. Appropriate professional learning may be part of a coherent plan that combines school activities within the school, including, but not limited to, lesson study or coteaching, and external learning opportunities that meet all of the following criteria:

(A) Are related to the academic subjects taught.

(B) Provide time to meet and work with other teachers.

(C) Support instruction and pupil learning to improve instruction in a manner that is consistent with academic content standards.

(e) For purposes of this section, "local educational agency" means a school district, county office of education, or charter school.

SEC. 85. Section 44932 of the Education Code is amended to read:

44932. (a) A permanent employee shall not be dismissed except for one or more of the following causes:

(1) Immoral ~~conduct~~ *conduct*, including, but not limited to, egregious misconduct. For ~~the~~ purposes of this chapter, "egregious misconduct" is defined exclusively as immoral conduct that is the basis for an offense described in Section 44010 or 44011 of this code, or in Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

(2) Unprofessional conduct.

(3) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188 of the Statutes of 1919, or in any amendment to that chapter.

(4) Dishonesty.

(5) Unsatisfactory performance.

(6) Evident unfitness for service.

(7) Physical or mental condition unfitting him or her to instruct or associate with children.

(8) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the state board or by the governing board of the school district employing him or her.

(9) Conviction of a felony or of any crime involving moral turpitude.

(10) Violation of Section 51530 or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(11) Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children.

(b) The governing board of a school district may suspend without pay for a specific period of time on grounds of unprofessional conduct a permanent certificated employee or, in a school district with an average daily attendance of less than 250 pupils, a probationary employee, pursuant to the procedures specified in Sections 44933, 44934, 44934.1, 44935, 44936, 44937, 44943, and 44944. This authorization ~~shall~~ *does* not apply to a school district that has adopted a collective bargaining agreement pursuant to subdivision (b) of Section 3543.2 of the Government Code.

SEC. 86. Section 44939 of the Education Code is amended to read:

44939. (a) This section ~~shall apply~~ *applies* only to dismissal or suspension proceedings initiated pursuant to Section 44934.

(b) Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a school district, or upon a written statement of charges formulated by the governing board of a school district, charging a permanent employee of the school district with immoral conduct, conviction of a felony or of any crime involving moral turpitude, with incompetency due to mental disability, with willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district, or with violation of Section 51530, the governing board of the school district may, if it deems that action necessary, immediately suspend the employee from his or her duties and give notice to him or her of his or her suspension, and that 30 days after service of the notice of dismissal, he or she will be dismissed, unless he or she demands a hearing.

(c) (1) An employee who has been placed on suspension pursuant to this section may serve and file with the Office of Administrative Hearings a motion for immediate reversal of suspension. Review of a motion filed pursuant to this section shall be limited to a determination as to whether the facts as alleged in the statement of charges, if true, are sufficient to constitute a basis for immediate suspension under this section. The motion shall include a memorandum of points and authorities setting forth law and argument supporting the employee's contention that the statement of charges does not set forth a sufficient basis for immediate suspension.

(2) The motion shall be served upon the governing board of the school district and filed with the Office of Administrative Hearings within 30 days after service upon the employee of the initial pleading in the matter. The governing board of the school district ~~shall have~~ *has* the right to serve and file a written response to the motion before or at the time of hearing.

(3) The hearing on the motion for immediate reversal of suspension shall be held no later than 30 days after the motion is filed with the Office of Administrative Hearings.

(4) The administrative law judge shall, no later than 15 days after the hearing, issue an order denying or granting the motion. The order shall be in writing, and a copy of the order shall be served by the Office of Administrative Hearings upon the parties. The grant or denial of the motion shall be without prejudice to

consideration by the Commission on Professional ~~Competence~~ *Competence,* based upon the full evidentiary record before it, of the validity of the grounds for dismissal. The ruling shall not be considered by the commission in determining the validity of the grounds for dismissal, and shall not have any bearing on the commission's determination regarding the grounds for dismissal.

(5) An order granting a motion for immediate reversal of suspension shall become effective within five days of service of the order. The school district shall make the employee whole for any lost wages, benefits, and compensation within 14 days after service of an order granting the motion.

(6) A motion made pursuant to this section shall be the exclusive means of obtaining interlocutory review of suspension pending dismissal. The grant or denial of the motion ~~shall~~ *is* not ~~be~~ subject to interlocutory judicial review.

(d) A motion for immediate reversal of suspension pursuant to this section ~~shall have no bearing on~~ *does not affect* the authority of a governing board of a school district to determine the physical placement and assignment of an employee who is suspended or placed on administrative leave during the review of the motion or while dismissal charges are pending.

SEC. 87. Section 44940 of the Education Code is amended to read:

44940. (a) For purposes of this section, "charged with a mandatory leave of absence offense" is defined to mean charged by complaint, information, or indictment filed in a court of competent jurisdiction with the commission of any sex offense as defined in Section 44010, with a violation or attempted violation of Section 187 of the Penal Code, or with the commission of any offense involving aiding or abetting the unlawful sale, use, or exchange to minors of controlled substances listed in Schedule I, II, or III, as contained in Sections 11054, 11055, and 11056 of the Health and Safety Code.

(b) For purposes of this section, "charged with an optional leave of absence offense" is defined to mean a charge by complaint, information, or indictment filed in a court of competent jurisdiction with the commission of any controlled substance offense as defined in Section 44011 or ~~87011,~~ *87011 of this code, or* Sections 11357 to 11361, inclusive, or Section 11363, 11364, or 11370.1 of the Health and Safety Code, insofar as these sections relate to any

controlled substances except marijuana, mescaline, peyote, or tetrahydrocannabinols.

(c) For purposes of this section and Section 44940.5, the term "school district" includes county offices of education.

(d) (1) If a certificated employee of a school district is charged with a mandatory leave of absence offense, as defined in subdivision (a), upon being informed that a charge has been filed, the governing board of the school district shall immediately place the employee on compulsory leave of absence. The duration of the leave of absence shall be until a time not more than 10 days after the date of entry of the judgment in the proceedings. No later than 10 days after receipt of the complaint, information, or indictment described by subdivision (a), the school district shall forward a copy to the Commission on Teacher Credentialing.

(2) Upon receiving a copy of a complaint, information, or indictment described in subdivision (a) and forwarded by a school district, the Commission on Teacher Credentialing shall automatically suspend the employee's teaching or service credential. The duration of the suspension shall be until a time not more than 10 days after the date of entry of the judgment in the proceedings.

(e) (1) If a certificated employee of a school district is charged with an optional leave of absence offense as defined in subdivision (b), the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section and Section 44940.5. If any certificated employee is charged with an offense deemed to fall into both the mandatory and the optional leave of absence categories, as defined in subdivisions (a) and (b), that offense shall be treated as a mandatory leave of absence offense for purposes of this section. No later than 10 days after receipt of the complaint, information, or indictment described by subdivision (a), the school district shall forward a copy to the Commission on Teacher Credentialing.

(2) Upon receiving a copy of a complaint, information, or indictment described in subdivision (a) and forwarded by a school district, the Commission on Teacher Credentialing shall automatically suspend the employee's teaching or service credential. The duration of the suspension shall be until a time not more than 10 days after the date of entry of the judgment in the proceedings.

SEC. 88. Section 44944 of the Education Code is amended to read:

44944. (a) This section ~~shall apply~~ *applies* only to dismissal or suspension proceedings initiated pursuant to Section 44934.

(b) (1) (A) In a dismissal or suspension proceeding initiated pursuant to Section 44934, if a hearing is requested by the employee, the hearing shall be commenced within six months from the date of the employee's demand for a hearing. A continuance shall not extend the date for the commencement of the hearing more than six months from the date of the employee's request for a hearing, except for extraordinary circumstances, as determined by the administrative law judge. If extraordinary circumstances are found that extend the date for the commencement of the hearing, the deadline for concluding the hearing and closing the record pursuant to this subdivision shall be extended for a period of time equal to the continuance. The hearing date shall be established after consultation with the employee and the governing board of the school district, or their representatives, except that if the parties are not able to reach an agreement on a date, the Office of Administrative Hearings shall unilaterally set a date in compliance with this section. The hearing shall be completed by a closing of the record within seven months of the date of the employee's demand for a hearing. A continuance shall not extend the date for the close of the record more than seven months from the date of the employee's request for a hearing, except for good cause, as determined by the administrative law judge.

(B) ~~Where~~ *If* substantial progress has been made in completing the previously scheduled days of the hearing within the seven-month period but the hearing cannot be completed, for good cause shown, within the seven-month period, the period for completing the hearing may be extended by the presiding administrative law judge. If the administrative law judge grants a continuance under this subparagraph, he or she shall establish a reasonable timetable for the completion of the hearing and the closing of the record. The hearing shall be initiated and conducted, and a decision made, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the Commission on Professional Competence shall have all of the power granted to an agency pursuant to that chapter, except as described in this article.

(2) (A) A witness shall not be permitted to testify at the hearing except upon oath or affirmation. ~~No testimony~~ *Testimony* shall *not* be given or evidence *shall not be* introduced relating to matters that occurred more than four years before the date of the filing of the notice, except allegations of an act described in Section 44010 of this code or Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

(B) Evidence of records regularly kept by the governing board of the school district concerning the employee may be introduced, but no decision relating to the dismissal or suspension of an employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years before the filing of the notice, except allegations of an act described in Section 44010 of this code or Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

(c) (1) The hearing provided for in this section shall be conducted by a Commission on Professional Competence, unless the parties submit a statement in writing to the Office of Administrative Hearings, indicating that both parties waive the right to convene a Commission on Professional Competence and stipulate to having the hearing conducted by a single administrative law judge. If the parties elect to waive a hearing before the Commission on Professional Competence, the hearing shall be initiated and conducted, and a decision made, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the administrative law judge conducting the hearing shall have all the powers granted to a Commission on Professional Competence pursuant to that chapter, except as described in this article.

(2) If the parties elect not to waive a hearing before a Commission on Professional Competence, one member of the commission shall be selected by the employee, one member shall be selected by the governing board of the school district, and one member shall be an administrative law judge of the Office of Administrative Hearings who shall be chairperson and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing.

(3) The governing board of the school district and the employee shall select Commission on Professional Competence members no later than 45 days before the date set for hearing, and shall serve

notice of their selection upon all other parties and upon the Office of Administrative Hearings. Failure to meet this deadline shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. If the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent, who shall be reimbursed by the school district for all costs incident to the selection.

(4) Any party who believes that a selected Commission on Professional Competence member is not qualified may file an objection, including a statement describing the basis for the objection, with the Office of Administrative Hearings and serve the objection and statement upon all other parties within 10 days of the date that the notice of selection is filed. Within seven days after the filing of any objection, the administrative law judge assigned to the matter shall rule on the objection or convene a teleconference with the parties for argument.

(5) (A) The member selected by the governing board of the school district and the member selected by the employee shall not be related to the employee and shall not be employees of the school district initiating the dismissal or suspension. Each member shall hold a currently valid credential and have at least three years' experience within the past 10 years in the discipline of the employee.

(B) For purposes of this paragraph, the following terms have the following meanings:

(i) For an employee subject to dismissal whose most recent teaching assignment is in kindergarten or any of the grades 1 to 6, inclusive, "discipline" means a teaching assignment in kindergarten or any of the grades 1 to 6, inclusive.

(ii) For an employee subject to dismissal whose most recent assignment requires an education specialist credential or a services credential, "discipline" means an assignment that requires an education specialist credential or a services credential, respectively.

(iii) For an employee subject to dismissal whose most recent teaching assignment is in any of the grades 7 to 12, inclusive, "discipline" means a teaching assignment in any of grades 7 to 12, inclusive, in the same area of study, as that term is used in Section

51220, as the most recent teaching assignment of the employee subject to dismissal.

(d) (1) The decision of the Commission on Professional Competence shall be made by a majority vote, and the commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition that shall be, solely, one of the following:

(A) That the employee should be dismissed.

(B) That the employee should be suspended for a specific period of time without pay.

(C) That the employee should not be dismissed or suspended.

(2) The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the school district or governing board of the school district unless the errors are prejudicial errors.

(3) The Commission on Professional Competence shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to subparagraph (B) of paragraph (1) shall be available only in a suspension proceeding authorized pursuant to subdivision (b) of Section 44932 or Section 44933.

(4) The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board of the school district.

(5) The governing board of the school district may adopt from time to time rules and procedures not inconsistent with this section as may be necessary to effectuate this section.

(6) The governing board of the school district and the employee shall have the right to be represented by counsel.

(e) (1) If the member selected by the governing board of the school district or the member selected by the employee is employed by any school district in this state, the member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the school district in which the member is employed, but shall *not* receive ~~no~~ additional compensation or honorariums for service on the commission.

(2) If the member selected is a retired employee, the member shall receive pay at the daily substitute teacher rate in the school

district that is a party to the hearing. Service on a Commission on Professional Competence shall not be credited toward retirement benefits.

(3) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing school district, whichever amount is greater.

(f) (1) If the Commission on Professional Competence determines that the employee should be dismissed or suspended, the governing board of the school district and the state shall share equally the expenses of the hearing, including the cost of the administrative law judge. The state shall pay any costs incurred under paragraphs (2) and (3) of subdivision (e), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board of the school district and the member selected by the employee, including, but not limited to, payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the member selected by the governing board of the school district and the member selected by the employee. The Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of the claims. The employee and the governing board of the school district shall pay their own attorney's fees.

(2) If the Commission on Professional Competence determines that the employee should not be dismissed or suspended, the governing board of the school district shall pay the expenses of the hearing, including the cost of the administrative law judge, any costs incurred under paragraphs (2) and (3) of subdivision (e), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board of the school district and the member selected by the employee, including, but not limited to, payments or obligations incurred for travel, meals, and lodging, the cost of the substitute or substitutes, if any, for the member selected by the governing board of the school district and the member selected by the employee, and reasonable attorney's fees incurred by the employee.

(3) As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (e).

(4) If either the governing board of the school district or the employee petitions a court of competent jurisdiction for review of the decision of the Commission on Professional ~~Competence~~ *Competence*, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

(5) If the decision of the Commission on Professional Competence is reversed or vacated by a court of competent jurisdiction, either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board of the school district for those expenses, or the governing board of the school district, having paid the expenses, shall be entitled to reimbursement from the state. If either the governing board of the school district or the employee petitions a court of competent jurisdiction for review of the decision to overturn the administrative law judge's decision, the payment of the expenses of the hearing, including the cost of the administrative law judge required by this paragraph, shall be stayed until no further appeal is sought, or all appeals are exhausted.

(g) The hearing provided for in this section shall be conducted in a place selected by agreement among the members of the Commission on Professional Competence. In the absence of agreement, the place shall be selected by the administrative law judge.

SEC. 89. Section 44944.05 of the Education Code is amended to read:

44944.05. (a) In a dismissal or suspension proceeding initiated pursuant to Section 44934, in lieu of written discovery required pursuant to Section 11507.6 of the Government Code, the parties shall make disclosures as described in this section. This section ~~shall~~ *does* not apply to dismissal or suspension proceedings initiated pursuant to Section 44934.1.

(b) (1) An initial disclosure shall comply with the following requirements:

(A) A party shall, without awaiting a discovery request, provide to the other parties both of the following:

(i) The name and, if known, the address and telephone number of each individual likely to have discoverable information, along with the subjects of information relating to the allegations made in the charges and the parties' claims and defenses, unless the use would be solely for impeachment purposes.

(ii) A copy of all documents, electronically stored information, and tangible items that the disclosing party has in its possession, custody, or control relating to the allegations made in the charges and the parties' claims or defenses, unless the use would be solely for impeachment.

(B) The school district and the employee shall make their initial disclosures within 45 days of the date of the employee's demand for a hearing.

(C) A party shall make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures. A party's failure to make initial disclosures within the deadlines set forth in this section shall preclude the party from introducing witnesses or evidence not disclosed at the hearing, unless the party shows good cause for its failure to timely disclose.

(D) A party has an obligation to promptly supplement its initial disclosures as new information or evidence becomes known or available. Supplemental disclosures shall be made as soon as possible, and no later than 60 days before the date of commencement of the hearing. A party's failure to make supplemental disclosures promptly upon discovery or availability of new information or evidence shall preclude the party from introducing witnesses or evidence not disclosed at the hearing, unless the party shows good cause for its failure to timely disclose.

(2) The disclosure of expert testimony shall comply with the following requirements:

(A) A party shall also disclose to the other parties the identities of any expert witnesses whose testimony it may use at the hearing.

(B) The disclosure specified in subparagraph (A) shall be accompanied by a summary of the witness' expected testimony, including a description of the facts and data considered by the witness; a description of the witness' qualifications, including a list of all publications authored in the previous 10 years; a list of all other cases in which, during the previous four years, the witness testified as an expert at a hearing or by deposition; and a statement of the compensation to be paid to the expert witness.

(C) Expert witness disclosures shall be made no later than 60 days before the date of commencement of the hearing. A party's failure to make full and timely expert witness disclosures shall

preclude the party's use of the expert witness' testimony or evidence at the hearing.

(3) Prehearing disclosures shall comply with the following requirements:

(A) In addition to the disclosures required in paragraphs (1) and (2), a party shall provide to the other parties the following information about the evidence that it may present at the hearing:

(i) The name, and, if not previously provided, the address and telephone number of each witness, separately identifying those the party expects to present and those it may call if the need arises.

(ii) An identification of each exhibit, separately identifying those items the party expects to offer and those it may offer if the need arises.

(B) Prehearing disclosures shall be made at least 30 days before the hearing.

(i) Within 14 days after prehearing disclosures are made, a party shall file and serve any objections, along with the grounds for each objection, to the admissibility of evidence.

(ii) These objections shall be decided on the first day of *the* hearing, or at a prehearing conference conducted pursuant to Section 11511.5 of the Government Code. Documents and individuals not timely disclosed without good cause shall be precluded from admission at the hearing.

(c) In addition to the disclosures required by subdivision (a), the parties may obtain discovery by oral deposition in California, in accordance with Sections 2025.010 to 2025.620, inclusive, of the Code of Civil Procedure, except as described in this article. The school district may take the depositions of the employee and no more than four other witnesses, and the employee may take depositions of no more than five witnesses. Each witness deposition is limited to seven hours. An administrative law judge may allow the parties to conduct additional depositions only upon a showing of good cause. If a motion to conduct additional depositions is granted by the administrative law judge, the employee shall be given a meaningful opportunity to respond to new evidence introduced as a result of the additional depositions. An order granting a motion for additional depositions shall not constitute an extraordinary circumstance or good cause for purposes of extending the deadlines set forth in paragraph (1) of subdivision (b) of Section 44944.

(d) If the right to disclosures or oral depositions is denied by either the employee or the governing board, the exclusive right of a party seeking an order compelling production of discovery shall be pursuant to Section 11507.7 of the Government Code. If a party seeks protection from unreasonable or oppressive discovery demands, the exclusive right of a party seeking an order for protection shall be pursuant to Section 11450.30 of the Government Code.

SEC. 90. Section 44944.3 of the Education Code is amended to read:

44944.3. At a hearing conducted pursuant to Section 44944 or 44944.1, the administrative law judge, before admitting any testimony or evidence concerning an individual pupil, shall determine whether the introduction of the testimony or evidence at an open hearing would violate any provision of Article 5 (commencing with Section 49073) of Chapter 6.5 of Part 27 of Division 4, relating to privacy of pupil records. If the administrative law judge, in his or her discretion, determines that any of those provisions would be violated, he or she shall order that the hearing, or any portion ~~thereof~~ *of the hearing* at which the testimony or evidence would be produced, be conducted in executive session.

SEC. 91. Section 46116 of the Education Code is amended to read:

46116. (a) No later than July 1, 2017, the Superintendent shall provide the Legislature with an evaluation of kindergarten program implementation in the state, including part-day and full-day kindergarten programs. The evaluation shall include recommended best practices for providing full-day kindergarten programs.

(b) The evaluation shall include a sample of local educational agencies' ~~full day~~ *full-day* and part-day kindergarten programs from across the state. It is the intent of the Legislature that this sample be representative of the diversity of the state, and shall include both urban and rural and small and large local educational agencies within school districts.

(c) The report required pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(d) This section shall not become operative until the Legislature makes an appropriation for these purposes in the annual Budget Act or in any other statute.

(e) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 92. The heading of Article 3 (commencing with Section 46330) of Chapter 3 of Part 26 of Division 4 of Title 2 of the Education Code is repealed.

~~Article 3. High Schools~~

SEC. 93. The heading of Article 4 (commencing with Section 46340) of Chapter 3 of Part 26 of Division 4 of Title 2 of the Education Code is repealed.

~~Article 4. Opportunity Schools~~

SEC. 94. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school ~~district, as long as~~ *district if* each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition is signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision ~~(b)~~ *(c)* of Section 41365 may be circulated by one

or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after the petition is signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district

shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the *school* district, other employees of the *school* district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that *the* establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) ~~A description of the~~ *The* educational program of the *charter* school, designed, among other things, to identify those whom the *charter* school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) ~~A description,~~ *The annual goals* for the charter ~~school, of annual goals,~~ *school* for all pupils and for each subgroup of pupils

identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed *charter* school will serve high school pupils, ~~a description of~~ the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The governance structure of the *charter* school, including, but not limited to, the process to be followed by the *charter* school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the *charter* school.

(F) The procedures that the *charter* school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the *charter* school furnish ~~the school~~ *it* with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) ~~A description of the~~ *The* rights of ~~any~~ *an* employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

~~(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.~~

~~(P) A description of the~~

(O) The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the *charter* school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

(6) The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their parents, legal guardians, and teachers regarding the *charter* school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against ~~any~~ *a* pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) If the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and ~~in no event~~ shall *not* take any action to impede the charter school from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require ~~any~~ *an* employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require ~~any~~ *a* pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the *charter* school, including, but not limited to, the facilities to be used by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as ~~it~~ *that section* read before July 19, 2006.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the state board.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education.

The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision ~~(b)~~ *(b),* and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition ~~shall, thereafter,~~ *shall* be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisorial and oversight responsibilities for a charter school approved by the state board to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local educational agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that is granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, before expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the *charter* school's petition for renewal, the school may petition the state board for renewal of its charter.

(*l*) Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

SEC. 95. Section 47605.1 of the Education Code is amended to read:

47605.1. (a) (1) Notwithstanding any other law, a charter school that is granted a charter from the governing board of a school district or county office of education after July 1, 2002, and

commences providing educational services to pupils on or after July 1, 2002, shall locate in accordance with the geographic and site limitations of this part.

(2) Notwithstanding any other law, a charter school that is granted a charter by the state board after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, based on the denial of a petition by the governing board of a school district or county board of education, as described in paragraphs (1) and (2) of subdivision (j) of Section 47605, may locate only within the geographic boundaries of the chartering entity that initially denied the petition for the charter.

(3) A charter school that receives approval of its charter from a governing board of a school district, a county office of education, or the state board before July 1, 2002, but does not commence operations until after January 1, 2003, shall be subject to the geographic limitations of the part, in accordance with subdivision (e).

(b) ~~Nothing in this~~ *This* section is *not* intended to affect the admission requirements contained in subdivision (d) of Section 47605.

(c) Notwithstanding any other law, a charter school may establish a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized if the following conditions are met:

(1) The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.

(2) The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the *charter* school is authorized.

(d) Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district ~~where~~ *in which* the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

(1) The school has attempted to locate a single site or facility to house the entire program, but such a facility or site is unavailable in the area in which the school chooses to locate.

(2) The site is needed for temporary use during a construction or expansion project.

(e) (1) For a charter school that was granted approval of its charter before July 1, 2002, and provided educational services to pupils before July 1, 2002, this section ~~shall~~ only ~~apply~~ *applies* to ~~any~~ new educational services or schoolsites established or acquired by the charter school on or after July 1, 2002.

(2) For a charter school that was granted approval of its charter before July 1, 2002, but did not provide educational services to pupils before July 1, 2002, this section ~~shall~~ only ~~apply~~ *applies* upon the expiration of a charter that is in existence on January 1, 2003.

(3) Notwithstanding other implementation timelines in this section, by June 30, 2005, or upon the expiration of a charter that is in existence on January 1, 2003, whichever is later, all charter schools shall be required to comply with this section for schoolsites at which education services are provided to pupils before or after July 1, 2002, regardless of whether the charter school initially received approval of its charter school petition before July 1, 2002. To achieve compliance with this section, a charter school shall be required to receive approval of a charter petition in accordance with this section and Section 47605.

(4) ~~Nothing in this~~ *This* section is *not* intended to affect the authority of a governmental entity to revoke a charter that is granted on or before the effective date of this section.

(f) A charter school that submits its petition directly to a county board of education, as authorized by Sections 47605.5 or 47605.6, may establish charter school operations only within the geographical boundaries of the county in which that county board of education has jurisdiction.

(g) Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

(1) The federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.).

(2) Federally affiliated Youth Build programs.

(3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

(4) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14507.5 or 14406 of the Public Resources Code.

(5) Instruction provided to juvenile court school pupils pursuant to subdivision (b) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

SEC. 96. Section 47605.6 of the Education Code is amended to read:

47605.6. (a) (1) In addition to the authority provided by Section 47605.5, a county board of education may also approve a petition for the operation of a charter school that operates at one or more sites within the geographic boundaries of the county and that provides instructional services that are not generally provided by a county office of education. A county board of education may approve a countywide charter only if it finds, in addition to the other requirements of this section, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county. A petition for the establishment of a countywide charter school pursuant to this subdivision may be circulated throughout the county by any one or more persons seeking to establish the charter school. The petition may be submitted to the county board of education for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or guardians of pupils residing within the county that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a school pursuant to this section.

(B) The petition is signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received

at least 30 days' notice of the petitioner's intent to operate a school pursuant to this section.

(2) An existing public school ~~may~~ *shall* not be converted to a charter school in accordance with this section.

(3) After receiving approval of its petition, a charter school that proposes to establish operations at additional sites within the geographic boundaries of the county board of education shall notify the school districts where those sites will be located. The charter school shall also request a material revision of its charter by the county board of education that approved its charter and the county board of education shall consider whether to approve those additional locations at an open, public meeting, held no sooner than 30 days following notification of the school districts where the sites will be located. If approved, the location of the approved sites shall be a material revision of the school's approved charter.

(4) A petition shall include a prominent statement indicating that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(b) No later than 60 days after receiving a petition, in accordance with subdivision (a), the county board of education shall hold a public hearing on the provisions of the charter, at which time the county board of education shall consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities. Following review of the petition and the public hearing, the county board of education shall either grant or deny the charter within 90 days of receipt of the petition. However, this date may be extended by an additional 30 days if both parties agree to the extension. A county board of education may impose any additional requirements beyond those required by this section that it considers necessary for the sound operation of a countywide charter school. A county board of education may grant a charter for the operation of a school under this part only if ~~the board~~ *it* is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Section 47605. The county board of

education shall deny a petition for the establishment of a charter school if ~~the board~~ *it* finds one or more of the following:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) ~~A description of the~~ *The* educational program of the *charter* school, designed, among other things, to identify those pupils whom the *charter* school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) ~~A description,~~ *The annual goals* for the charter ~~school, of annual goals,~~ *school* for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed charter school will enroll high school pupils, ~~a description of~~ the manner in which the charter school will inform parents regarding the transferability of courses to other public high schools. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered to be transferable to other public high schools.

(iv) If the proposed charter school will enroll high school pupils, information as to the manner in which the charter school will inform parents as to whether each individual course offered by the charter school meets college entrance requirements. Courses approved by the University of California or the California State University as satisfying their prerequisites for admission may be

considered as meeting college entrance requirements for purposes of this clause.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and aptitudes specified as goals in the school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The location of each charter school facility that the petitioner proposes to operate.

(E) The governance structure of the *charter* school, including, but not limited to, the process to be followed by the *charter* school to ensure parental involvement.

(F) The qualifications to be met by individuals to be employed by the *charter* school.

(G) The procedures that the *charter* school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the *charter* school furnish ~~the school~~ *it* with a criminal record summary as described in Section 44237.

(H) The means by which the *charter* school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(I) The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the state board, and the manner in which audit exceptions and deficiencies shall be resolved.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter ~~schools~~ *school* will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The procedures to be followed by the charter school and the county board of education to resolve disputes relating to provisions of the charter.

~~(M) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).~~

~~(N)~~

(M) Admission requirements of the charter school, if applicable.

~~(O)~~

(N) The public school attendance alternatives for pupils residing within the county who choose not to attend the charter school.

~~(P) A description of the~~

(O) The rights of an employee of the county office of education, upon leaving the employment of the county office of education, to be employed by the charter school, and ~~a description of~~ any rights of return to the county office of education that an employee may have upon leaving the employ of the charter school.

~~(Q) A description of the~~

(P) The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of public records.

(6) A declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

~~(6)~~

(7) Any other basis that the county board of education finds justifies the denial of the petition.

(c) A county board of education that approves a petition for the operation of a countywide charter may, as a condition of charter approval, enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report to the county board of education on the operations of the charter school. The county board of education may prescribe the aspects of the charter school's operations to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the charter school to the county board of education.

(d) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall on a regular basis consult with their parents and teachers regarding the *charter* school's educational programs.

(e) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, gender identity, gender expression, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state.

(2) (A) A charter school shall admit all pupils who wish to attend the *charter* school.

(B) If the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the county except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the county board of education shall make reasonable efforts to accommodate the growth of the charter school and in no event shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(f) The county board of education shall not require ~~any~~ *an* employee of the county or a school district to be employed in a charter school.

(g) The county board of education shall not require ~~any~~ *a* pupil enrolled in a county program to attend a charter school.

(h) The county board of education shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the *charter* school, including, but not limited to, the facilities to be used by the *charter* school, the manner in which administrative services of the *charter* school are to be provided, and potential civil liability effects, if any, upon the *charter* school, any school district where the charter school may operate, and upon the county board of education. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(i) In reviewing petitions for the establishment of charter schools within the county, the county board of education shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as ~~it~~ *that section* read before July 19, 2006.

(j) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the school districts within the county, the Superintendent, and to the state board.

(k) If a county board of education denies a petition, the petitioner may not elect to submit the petition for the establishment of the charter school to the state board.

(*l*) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year,

as described in subparagraph (I) of paragraph (5) of subdivision (b), to the county office of education, the Controller, and the department by December 15 of each year. This subdivision ~~shall~~ *does* not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

SEC. 97. Section 47614.5 of the Education Code is amended to read:

47614.5. (a) The Charter School Facility Grant Program is hereby established, and shall be administered by the California School Finance Authority. The grant program is intended to provide assistance with facilities rent and lease costs for pupils in charter schools.

(b) Subject to the annual Budget Act, eligible charter schools shall receive an amount of up to, but not more than, seven hundred fifty dollars ($750) per unit of average daily attendance, as certified at the second principal apportionment, to provide an amount of up to, but not more than, 75 percent of the annual facilities rent and lease costs for the charter school. In any fiscal year, if the funds appropriated for purposes of this section by the annual Budget Act are insufficient to fully fund the approved ~~amounts~~ amounts, the California School Finance Authority shall apportion the available funds on a pro rata basis.

(c) For purposes of this section, the California School Finance Authority shall do all of the following:

(1) Inform charter schools of the grant program.

(2) Upon application by a charter school, determine eligibility, based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced-price meals, and a preference in admissions, as appropriate. Eligibility for funding shall not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. A charter schoolsite is eligible for funding pursuant to this section if the charter schoolsite meets ~~either~~ *any* of the following conditions:

(A) The charter schoolsite is physically located in the attendance area of a public elementary school in which 70 percent or more of the pupil enrollment is eligible for free or reduced-price meals and the charter schoolsite gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located.

(B) Seventy percent or more of the pupil enrollment at the charter schoolsite is eligible for free or reduced-price meals.

(C) In any year in which additional funds remain after state and federal funds have been allocated to applicants that meet the eligibility criteria in subparagraph (A) or (B), the California School Finance Authority shall expand eligibility to additional charter schools that are eligible pursuant to subparagraph (B) by reducing the free and reduced-price meals threshold ~~one~~ *1* percentage point at a time, but in no case below 60 percent.

(3) Inform charter schools of their grant eligibility.

(4) Make apportionments to a charter school for eligible expenditures according to the following schedule:

(A) An initial apportionment by August 31 of each fiscal year or 30 days after enactment of the annual Budget Act, whichever is later, provided the charter school has submitted a timely application for funding, as determined by the California School Finance Authority. The initial apportionment shall be 50 percent of the charter school's estimated annual entitlement as determined by this section.

(B) A second apportionment by March 1 of each fiscal year. This apportionment shall be 75 percent of the charter school's estimated annual entitlement, as adjusted for any revisions in cost, enrollment, and other data relevant to computing the charter school's annual entitlement, less any funding already apportioned to the charter school.

(C) A third apportionment within 30 days of the end of each fiscal year or 30 days after receiving the data and documentation needed to compute the charter school's total annual entitlement, whichever is later. This apportionment shall be the charter school's total annual entitlement less any funding already apportioned to the charter school.

(D) Notwithstanding subparagraph (A), the initial apportionment in the 2013–14 fiscal year shall be made by October 15, 2013, or 105 days after enactment of the Budget Act of 2013, whichever is later.

(d) For purposes of this section:

(1) The California School Finance Authority shall use prior year data on pupil eligibility for free or reduced-price meals for the charter schoolsite and prior year rent or lease costs provided by charter schools to determine eligibility for the grant program until

current year data and actual rent or lease costs become known or until June 30 of each fiscal year.

(2) If prior year rent or lease costs are unavailable, and the current year lease and rent costs are not immediately available, the California School Finance Authority shall use rent or lease cost estimates provided by the charter school.

(3) The California School Finance Authority shall verify that the grant amount awarded to each charter school is consistent with eligibility requirements as specified in this section and in regulations adopted by the authority. If it is determined by the California School Finance Authority that a charter school did not receive the proper grant award amount, either the charter school shall transfer funds back to the authority as necessary within 60 days of being notified by the authority, or the authority shall provide an additional apportionment as necessary to the charter school within 60 days of notifying the charter school, subject to the availability of funds.

(e) Funds appropriated for purposes of this section shall not be apportioned for any of the following:

(1) Units of average daily attendance generated through nonclassroom-based instruction as defined by paragraph (2) of subdivision (e) of Section 47612.5 or that does not comply with conditions or limitations set forth in regulations adopted by the ~~state board~~ *California School Finance Authority* pursuant to this section.

(2) Charter schools occupying existing school district or county office of education facilities, except that charter schools shall be eligible for the portions of their facilities that are not existing school district or county office of education facilities.

(3) Charter schools receiving reasonably equivalent facilities from their chartering authorities pursuant to Section 47614, except that charter schools shall be eligible for the portions of their facilities that are not reasonably equivalent facilities received from their chartering authorities.

(f) Funds appropriated for purposes of this section shall be used for costs associated with facilities rents and leases, consistent with the definitions used in the California School Accounting Manual or regulations adopted by the California School Finance Authority. These funds also may be used for costs, including, but not limited to, costs associated with remodeling buildings, deferred

maintenance, initially installing or extending service systems and other built-in equipment, and improving sites.

(g) If an existing charter school located in an elementary attendance area in which less than 50 percent of pupil enrollment is eligible for free or reduced-price meals relocates to an attendance area identified in paragraph (2) of subdivision (c), admissions preference shall be given to pupils who reside in the elementary school attendance area into which the charter school is relocating.

(h) The California School Finance Authority annually shall report to the department and the Director of Finance, and post information on its Internet Web site, regarding the use of funds that have been made available during the fiscal year to each charter school pursuant to the grant program.

(i) The California School Finance Authority ~~shall~~ annually *shall* allocate the facilities grants to eligible charter schools according to the schedule in paragraph (4) of subdivision (c) for the current school year rent and lease costs. However, the California School Finance Authority shall first use the funding appropriated for this program to reimburse eligible charter schools for unreimbursed rent or lease costs for the prior school year.

(j) It is the intent of the Legislature that the funding level for the Charter School Facility Grant Program for the 2012–13 fiscal year be considered the base level of funding for subsequent fiscal years.

(k) The Controller shall include instructions appropriate to the enforcement of this section in the audit guide required by subdivision (a) of Section 14502.1.

(*l*) The California School Finance Authority, effective with the 2013–14 fiscal year, shall be considered the senior creditor for purposes of satisfying audit findings pursuant to the audit instructions to be developed pursuant to subdivision (k).

(m) The California School Finance Authority may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(n) Notwithstanding any other law, a charter school shall be subject, with regard to this section, to audit conducted pursuant to Section 41020.

SEC. 98. Section 47651 of the Education Code is amended to read:

47651. (a) A charter school may receive the state aid portion of the charter school's total local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, directly or through the local educational agency that either grants its charter or was designated by the state board.

(1) In the case of a charter school that elects to receive its funding directly, the warrant shall be drawn in favor of the county superintendent of schools of the county in which the local educational agency that granted the ~~charter~~ *charter,* or was designated by the state board as the oversight agency pursuant to paragraph (1) of subdivision (k) of Section ~~47605~~ *47605,* is located, for deposit to the appropriate funds or accounts of the charter school in the county treasury. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

(2) In the case of a charter school that does not elect to receive its funding directly pursuant to this section, the warrant shall be drawn in favor of the county superintendent of schools of the county in which the local educational agency that granted the charter is located or was designated the oversight agency by the state board pursuant to paragraph (1) of subdivision (k) of Section 47605, for deposit to the appropriate funds or accounts of the local educational agency.

(3) In the case of a charter school, the charter of which was granted by the state board, but for which the state board has not delegated oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, the warrant shall be drawn in favor of the county superintendent of schools in the county where the local educational agency is located that initially denied the charter that was later granted by the state board. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

(b) On or before June 1 of each year, a charter school electing to receive its funding directly shall so notify the county superintendent of schools of the county in which the local

educational agency that granted the charter is located or, in the case of charters for which the state board has designated an oversight agency pursuant to paragraph (1) of subdivision (k) of Section 47605, the county superintendent of schools of the county in which the designated oversight agency is located. An election to receive funding directly ~~shall apply~~ *applies* to all funding that the charter school is eligible to receive including, but not limited to, the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, other state and federal categorical aid, and lottery funds.

SEC. 99. Section 48003 of the Education Code is amended to read:

48003. Commencing with the 2015–16 school year, a local educational agency shall provide an annual report to the ~~State Department of Education~~ *department* that contains information on the type of kindergarten program offered by the local educational agency, including part-day, full-day, or both, in a manner determined by the department.

SEC. 100. Section 48297 of the Education Code is amended to read:

48297. (a) (1) A state or local agency conducting a truancy-related mediation or prosecuting a pupil or a pupil's parent or legal guardian pursuant to Article 5 (commencing with Section 48260), this article, Section 48454, Section 270.1 or 272 of the Penal Code, or Section 601 of the Welfare and Institutions Code, as applicable, shall provide, using the most cost-effective method possible, including, but not limited to, by ~~electronic mail~~ *email* or telephone, the school district, school attendance review board, county superintendent of schools, probation department, or any other agency that referred a truancy-related mediation, criminal complaint, or petition with the outcome of each referral. For purposes of this section, "outcome" means the imposed conditions or terms placed on a pupil or a pupil's parent or legal guardian and the acts or actions taken by a state or local ~~authority~~ *agency* with respect to a truancy-related mediation, prosecution, criminal complaint, or petition.

(2) This subdivision ~~shall apply~~ *applies* to, but is not limited to, the referrals referenced in Article 5 (commencing with Section 48260), this article, Section 48454, Sections 270.1 and 272 of the

Penal Code, and Sections 601, 601.2, and 601.3 of the Welfare and Institutions Code.

(b) It is the intent of the Legislature to determine the best evidence-based practices to reduce truancy. ~~Nothing in this~~ *This* section is *not* intended to encourage additional referrals, complaints, petitions, or prosecutions, or to encourage more serious sanctions for pupils.

SEC. 101. Section 48321 of the Education Code is amended to read:

48321. (a) (1) A county school attendance review board may be established in each county. The county school attendance review board may accept referrals or requests for hearing services from one or more school districts within its ~~jurisdiction,~~ *jurisdiction* pursuant to subdivision (f). A county school attendance review board may be operated through a consortium or partnership of a county with one or more school districts or between two or more counties.

(2) A county school attendance review board, if established, shall include, but need not be limited to, all of the following:

(A) A parent.

(B) A representative of school districts.

(C) A representative of the county probation department.

(D) A representative of the county welfare department.

(E) A representative of the county superintendent of schools.

(F) A representative of law enforcement agencies.

(G) A representative of community-based youth service centers.

(H) A representative of school guidance personnel.

(I) A representative of child welfare and attendance personnel.

(J) A representative of school or county health care personnel.

(K) A representative of school, county, or community mental health personnel.

(L) A representative of the county district attorney's office. If more than one county is represented in a county school attendance review board, a representative from each county's district attorney's office may be included.

(M) A representative of the county public defender's office. If more than one county is represented in a county school attendance review board, a representative from each county's public defender's office may be included.

(3) Notwithstanding paragraph (2), for purposes of conducting hearings, the chairperson of the county school attendance review board is authorized to determine the members needed at a hearing, based on the needs of the pupil, in order to address attendance or behavioral problems.

(4) The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

(5) (A) If a county school attendance review board exists, the county superintendent of schools shall, at the beginning of each school year, convene a meeting of the county school attendance review board for purposes of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance and behavior problems.

(B) Notwithstanding subparagraph (A), for purposes of conducting hearings, a county school attendance review board may meet as needed.

(b) (1) Local school attendance review boards may include, but need not be limited to, all of the following:

(A) A parent.

(B) A representative of school districts.

(C) A representative of the county probation department.

(D) A representative of the county welfare department.

(E) A representative of the county superintendent of schools.

(F) A representative of law enforcement agencies.

(G) A representative of community-based youth service centers.

(H) A representative of school guidance personnel.

(I) A representative of child welfare and attendance personnel.

(J) A representative of school or county health care personnel.

(K) A representative of school, county, or community mental health personnel.

(L) A representative of the county district attorney's office. If more than one county is represented in a local school attendance review board, a representative from each county's district attorney's office may be included.

(M) A representative of the county public defender's office. If more than one county is represented in a county school attendance

review board, a representative from each county's public defender's office may be included.

(2) Other persons or group representatives shall be appointed by the county board of education.

(c) A county school attendance review board may elect, pursuant to regulations adopted pursuant to Section 48324, one member as chairperson with responsibility for coordinating services of the county school attendance review board.

(d) A county school attendance review board may provide for the establishment of local school attendance review boards in any number as shall be necessary to carry out the intent of this article.

(e) In any county in which there is no county school attendance review board~~, a school district~~ *the* governing board *of a school district* may elect to establish a local school attendance review board, which shall operate in the same manner and have the same authority as a county school attendance review board.

(f) A county school attendance review board may provide guidance to local school attendance review boards.

(g) If the county school attendance review board determines that the needs of pupils, as defined in this article, can best be served by a single board, the county school attendance review board may then serve as the school attendance review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that school district.

(h) ~~Nothing in this~~ *This* article is *not* intended to prohibit an agreement on the part of counties to provide these services on a regional basis.

SEC. 102. The heading of Article 2 (commencing with Section 48810) of Chapter 5 of Part 27 of Division 4 of Title 2 of the Education Code is repealed.

~~Article 2. Vocational Education Classes~~

SEC. 103. Section 48900.9 of the Education Code is amended to read:

48900.9. (a) The superintendent of a school district, the principal of a school, or the principal's designee may refer a victim of, witness to, or other pupil affected by, an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900,

committed on or after January 1, 2015, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate.

(b) A ~~student~~ *pupil* who has engaged in an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, may also be referred to the school counselor, school psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling, or for participation in a restorative justice program, pursuant to Section 48900.5.

SEC. 104. Section 49452.9 of the Education Code is amended to read:

49452.9. (a) For purposes of the 2015–16, 2016–17, and 2017–18 school years, a public school, including a charter school, shall add an informational item to its enrollment forms, or amend an existing enrollment ~~form~~ *form,* in order to provide the parent or legal guardian information about health care coverage options and enrollment assistance.

(b) To satisfy the requirements of subdivision (a), a school may do either of the following:

(1) Use a template developed pursuant to subdivision (d).

(2) Develop an informational item or amend an existing enrollment form to provide information about health care coverage options and enrollment assistance.

(c) A school may include a factsheet with its enrollment forms explaining basic information about affordable health care coverage options for children and families.

(d) (1) The ~~State Department of Education~~ *department* shall develop a standardized template for both of the following:

(A) The informational item or amendment required by subdivision (a).

(B) The factsheet described in subdivision (c).

(2) The department shall make any templates developed pursuant to this subdivision available on its Internet Web site on or before August 1, 2015, and shall, upon request, provide written copies of the template to a school district.

(e) A school district shall not discriminate against a pupil who does not have health care coverage or use any information relating

to a pupil's health care coverage or interest in learning about health care coverage in any manner that would bring harm to the pupil or the pupil's family.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 105. Section 51747.3 of the Education Code, as amended by Section 1 of Chapter 807 of the Statutes of 2014, is amended to read:

51747.3. (a) Notwithstanding any other law, a local educational agency, including, but not limited to, a charter school, ~~may~~ *shall* not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the local educational agency has provided any funds or other thing of value to the pupil or his or her parent or guardian that the local educational agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school ~~may~~ *shall* not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school ~~district,~~ *district* or to his or her parent or guardian.

(b) (1) Notwithstanding paragraph (1) of subdivision (d) of Section 47605 or any other law, and except as specified in paragraph (2), community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.

(2) In addition to claiming independent study average daily attendance pursuant to paragraph (1), a virtual or online charter school may also claim independent study average daily attendance for a pupil who is enrolled in the school and moves to a residence located outside of the ~~geographical~~ *geographic* boundaries of the virtual or online charter school. The virtual or online charter school may claim independent study average daily attendance for the pupil under this paragraph only for the duration of the course or

courses in which the pupil is enrolled or until the end of the school year, whichever occurs first.

(c) The Superintendent shall not apportion funds for reported average daily attendance, through full-time independent study, of pupils who are enrolled in school pursuant to subdivision (b) of Section 48204.

(d) In conformity with Provisions 25 and 28 of Item 6110–101–001 of Section 2.00 of the Budget Act of 1992, this section is applicable to average daily attendance reported for apportionment purposes beginning July 1, 1992. The provisions of this section are not subject to waiver by the state board, by the Superintendent, or under any provision of Part 26.8 (commencing with Section 47600).

(e) For purposes of this section, "virtual or online charter school" means a charter school in which at least 80 percent of teaching and pupil interaction occurs via the Internet.

(f) 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. 106. Section 52064.5 of the Education Code is amended to read:

52064.5. (a) On or before October 1, 2015, the state board shall adopt evaluation rubrics for all of the following purposes:

(1) To assist a school district, county office of education, or charter school in evaluating its strengths, weaknesses, and areas that require improvement.

(2) To assist a county superintendent of schools in identifying school districts and charter schools in need of technical assistance pursuant to Section 52071 or 47607.3, as applicable, and the specific priorities upon which the technical assistance should be focused.

(3) To assist the Superintendent in identifying school districts for which intervention pursuant to Section 52072 is warranted.

(b) The evaluation rubrics shall reflect a holistic, multidimensional assessment of school district and individual schoolsite performance and shall include all of the state priorities described in subdivision (d) of Section 52060.

(c) As part of the evaluation rubrics, the state board shall adopt standards for school district and individual schoolsite performance

and ~~expectation~~ *expectations* for improvement in regard to each of the state priorities described in subdivision (d) of Section 52060.

SEC. 107. Section 52852 of the Education Code is amended to read:

52852. *(a)* A schoolsite council shall be established at each school ~~which~~ *that* participates in school-based program coordination. The *schoolsite* council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by ~~such~~ *the* parents; and, in secondary schools, pupils selected by pupils attending the school.

~~At~~

(b) (1) At the elementary ~~level the~~ *level, the schoolsite* council shall be constituted to ensure parity between ~~(a)~~ *(A)* the principal, classroom ~~teachers~~ *teachers,* and other school personnel; and ~~(b)~~ *(B)* parents or other community members selected by parents.

~~At~~

(2) At the secondary ~~level the~~ *level, the schoolsite* council shall be constituted to ensure parity between ~~(a)~~ *(A)* the principal, classroom ~~teachers~~ *teachers,* and other school personnel; and ~~(b)~~ *(B) an* equal ~~numbers~~ *number* of parents, or other community members selected by parents, and pupils.

~~At~~

(3) At both the elementary and secondary levels, classroom teachers shall comprise the majority of persons represented under ~~category (a).~~ *subparagraph (A) of paragraphs (1) and (2).*

~~Existing~~

(c) Existing schoolwide advisory groups or school support groups may be utilized as the schoolsite council if those groups conform to this section.

~~The Superintendent of Public Instruction shall~~

(d) The Superintendent shall provide several examples of selection and replacement procedures that may be considered by schoolsite councils.

~~An~~

(e) An employee of a school who is also a parent or guardian of a pupil who attends a school other than the school of the parent's or guardian's ~~employment,~~ *employment* is not disqualified by virtue of this employment from serving as a parent representative on the

schoolsite council established for the school that his or her child or ward attends.

SEC. 108. The heading of Chapter 14 (commencing with Section 52980) of Part 28 of Division 4 of Title 2 of the Education Code is repealed.

~~Chapter 14. Pilot Projects in Applied Academic Areas and Programs~~

SEC. 109. The heading of Article 8 (commencing with Section 54750) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code is repealed.

~~Article 8. College Admissions Test Preparation Pilot Projects~~

SEC. 110. The heading of Chapter 8.5 (commencing with Section 56867) of Part 30 of Division 4 of Title 2 of the Education Code is repealed.

~~Chapter 8.5. Special Education at the Youth Authority~~

SEC. 111. The heading of Article 7 (commencing with Section 66080) of Chapter 2 of Part 40 of Division 5 of Title 3 of the Education Code, as added by Section 2 of Chapter 200 of the Statutes of 1995, is amended and renumbered to read:

Article ~~7.~~*8.* English Proficiency in Higher Education

SEC. 112. Section 66261.5 of the Education Code, as added by Section 38 of Chapter 569 of the Statutes of 2007, is amended and renumbered to read:

~~66261.5.~~

66261.3. "Nationality" includes citizenship, country of origin, and national origin.

SEC. 113. Section 66281.7 of the Education Code is amended to read:

66281.7. (a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind, including, but not limited to, pregnancy discrimination as described in Title IX of

the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), in the postsecondary educational institutions of the state.

(b) Each of the following requirements ~~shall be applicable~~ *apply* to postsecondary educational institutions in this state:

(1) A postsecondary educational institution, including the faculty, staff, or other employees of the institution, shall not require a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues.

(2) A postsecondary educational institution, including the faculty, staff, or other employees of the institution, shall reasonably accommodate pregnant graduate students so they may complete their graduate courses of study and research. Reasonable accommodation within the meaning of this subdivision may include, but is not necessarily limited to, allowances for the pregnant student's health and safety, such as allowing the student to maintain a safe distance from hazardous substances, allowing the student to make up tests and assignments that are missed for pregnancy-related reasons, or allowing ~~a~~ *the* student to take a leave of absence. Reasonable accommodation shall include the excusing of absences that are medically necessary, as required under Title IX.

(3) A graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth shall be allowed a period consistent with the policies of the postsecondary educational institution, or a period of 12 additional months, whichever period is longer, to prepare for and take preliminary and qualifying examinations and an extension of at least 12 months toward normative time to degree while in candidacy for a graduate degree, unless a longer extension is medically necessary.

(4) A graduate student who is not the birth parent and who chooses to take a leave of absence because of the birth of his or her child shall be allowed a period consistent with the policies of the postsecondary educational institution, or a period of one month, whichever period is longer, to prepare for and take preliminary and qualifying examinations, and an extension of at least one month toward normative time to degree while in candidacy for a graduate degree, unless a longer period or extension is medically necessary to care for his or her partner or their child.

(5) An enrolled graduate student in good academic standing who chooses to take a leave of absence because she is pregnant or has recently given birth shall return to her program in good academic standing following a leave period consistent with the policies of the postsecondary educational institution or of up to one academic year, whichever period is longer, subject to the reasonable administrative requirements of the institution, unless there is a medical reason for a longer absence, in which case her standing in the graduate program shall be maintained during that period of absence.

(6) An enrolled graduate student in good academic standing who is not the birth parent and who chooses to take a leave of absence because of the birth of his or her child shall return to his or her program in good academic standing following a leave period consistent with the policies of the postsecondary educational institution, or of up to one month, whichever period is longer, subject to the reasonable administrative requirements of the institution.

(c) Each postsecondary educational institution shall have a written policy for graduate students on pregnancy discrimination and procedures for addressing pregnancy discrimination complaints under Title IX or this section. A copy of this policy shall be made available to faculty, staff, and employees in their required training. This policy shall be made available to all graduate students attending orientation sessions at a postsecondary educational institution.

SEC. 114. Section 67386 of the Education Code is amended to read:

67386. (a) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965 (20 U.S.C. Sec. ~~1092(f))~~ *1092(f))*, involving a student, both on and off campus. The policy shall include all of the following:

(1) An affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary

agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

(2) A policy that, in the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

(A) The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.

(B) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

(3) A policy that the standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence.

(4) A policy that, in the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

(A) The complainant was asleep or unconscious.

(B) The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.

(C) The complainant was unable to communicate due to a mental or physical condition.

(b) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall adopt detailed and victim-centered policies and protocols regarding sexual assault, domestic violence,

dating violence, and stalking involving a student that comport with best practices and current professional standards. At a minimum, the policies and protocols shall cover all of the following:

(1) A policy statement on how the institution will provide appropriate protections for the privacy of individuals involved, including confidentiality.

(2) Initial response by the institution's personnel to a report of an incident, including requirements specific to assisting the victim, providing information in writing about the importance of preserving evidence, and the identification and location of witnesses.

(3) Response to stranger and nonstranger sexual assault.

(4) The preliminary victim interview, including the development of a victim interview protocol, and a comprehensive followup victim interview, as appropriate.

(5) Contacting and interviewing the accused.

(6) Seeking the identification and location of witnesses.

(7) Providing written notification to the victim about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate.

(8) Participation of victim advocates and other supporting people.

(9) Investigating allegations that alcohol or drugs were involved in the incident.

(10) Providing that an individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

(11) The role of the institutional staff supervision.

(12) A comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.

(13) Procedures for confidential reporting by victims and third parties.

(c) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall, to the extent feasible, enter into memoranda of understanding, agreements, or collaborative partnerships with existing on-campus and community-based organizations, including rape crisis centers, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, and including resources for the accused.

(d) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall implement comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking. A comprehensive prevention program shall include a range of prevention strategies, including, but not limited to, empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. Outreach programs shall be provided to make students aware of the institution's policy on sexual assault, domestic violence, dating violence, and stalking. At a minimum, an outreach program shall include a process for contacting and informing the student body, campus organizations, athletic programs, and student groups about the institution's overall sexual assault policy, the practical implications of an affirmative consent standard, and the rights and responsibilities of students under the policy.

(e) Outreach programming shall be included as part of every incoming student's orientation.

SEC. 115. The heading of Article 7 (commencing with Section 68090) of Chapter 1 of Part 41 of Division 5 of Title 3 of the Education Code is repealed.

~~Article 7. Rules and Regulations~~

SEC. 116. Section 69437 of the Education Code is amended to read:

69437. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, there shall be established the Competitive Cal Grant A and B award program for students who did not receive a Cal Grant A or B entitlement award pursuant to Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), or Article 4 (commencing with Section 69436). Awards made under this section are not entitlements. The submission of an application by a student under this section ~~shall~~ *does* not entitle that student to an award. The selection of students under this article shall be determined pursuant to subdivision (c) and other relevant criteria established by the commission.

(b) A total of 22,500 Cal Grant A and B awards shall be granted annually under this article on a competitive basis for applicants who meet the general eligibility criteria established in Article 1 (commencing with Section 69430) and the priorities established by the commission pursuant to subdivision (c).

(1) Fifty percent of the awards referenced in this subdivision are available to all students, including California community college students, who meet the financial need and academic requirements established pursuant to this article. A student enrolling at a qualifying baccalaureate degree granting institution shall apply by the March 2 deadline. A California community college student is eligible to apply at the March 2 or the September 2 deadline.

(2) Fifty percent of the awards referenced in this subdivision are reserved for students who will be enrolled at a California community college. The commission shall establish a second application deadline of September 2 for community college students to apply for these awards effective with the fall term or semester of the 2001–02 academic year.

(3) If any awards are not distributed pursuant to paragraphs (1) and (2) upon initial allocation of the awards under this article, the commission shall make awards to as many eligible students as possible, beginning with the students with the lowest expected family contribution and highest academic merit, consistent with the criteria adopted by the commission pursuant to subdivision (c), as practicable without exceeding an annual cumulative total of 22,500 awards.

(c) (1) On or before February 1, 2001, acting pursuant to a public hearing process that is consistent with 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), the commission shall establish selection criteria for Cal Grant A and B awards under the competitive program that give special consideration to disadvantaged students, taking into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper a student's access to, and ability to persist in, postsecondary education programs.

(2) Additional consideration shall be given to ~~each~~ *both* of the following:

~~(A) Students who graduated from high school or its equivalent prior to the 2000–01 academic year. This subparagraph shall not be applicable after the 2004–05 academic year.~~

~~(B)~~

(A) Students pursuing Cal Grant B awards who reestablish their grade point averages.

~~(C)~~

(B) Students who did not receive awards pursuant to Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), or Article 4 (commencing with Section 69436).

(d) All other students who meet the eligibility requirements pursuant to Article 1 (commencing with Section 69430) are eligible to compete for an award pursuant to this article.

SEC. 117. Section 70022 of the Education Code is amended to read:

70022. (a) (1) Subject to an available and sufficient appropriation, commencing with the 2014–15 academic year, an undergraduate student enrolled in the California State University or the University of California who meets the requirements of paragraph (2) is eligible for a scholarship award as described in that paragraph.

(2) Each academic year, except as provided in paragraphs (3) and (4), a student shall receive a scholarship award in an amount that, combined with other federal, state, or institutionally administered student grants or fee waivers received by an eligible student, is up to 40 percent of the amount charged to that student

in that academic year for mandatory systemwide tuition and fees, if all of the following requirements are met:

(A) The student's annual household income does not exceed one hundred fifty thousand dollars ($150,000). For purposes of this article, annual household income shall be calculated in a manner that is consistent with the requirements applicable to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Chapter 1.7 (commencing with Section 69430)) and Section 69506.

(B) The student satisfies the eligibility requirements for a Cal Grant award pursuant to Section 69433.9, except that a student who is exempt from nonresident tuition under Section 68130.5 shall not be required to satisfy the requirements of subdivision (a) of Section 69433.9.

(C) The student is exempt from paying nonresident tuition.

(D) The student completes and submits a Free Application for Federal Student Aid (FAFSA) application. The FAFSA must be submitted or postmarked by no later than March 2. If the student is not able to complete a FAFSA application, the student may satisfy this subparagraph by submitting an application determined by the commission to be equivalent to the FAFSA application for purposes of this article by March 2.

(E) The student makes a timely application or applications for all other federal, state, or institutionally administered grants or fee waivers for which the student is eligible.

(F) The student maintains satisfactory academic progress in a manner that is consistent with the requirements applicable to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program pursuant to subdivision (m) of Section 69432.7.

(G) The student is pursuing his or her first undergraduate baccalaureate degree or has completed a baccalaureate degree and has been admitted to, and is enrolled in, a program of professional teacher preparation at an institution approved by the California Commission on Teacher Credentialing.

(H) The student is enrolled at least part time.

(3) (A) The percentage specified in paragraph (2) shall be reduced by 0.6-percent increments per one thousand dollars ($1,000) of annual household income in excess of one hundred thousand dollars ($100,000), to a minimum 10 percent of mandatory systemwide tuition and fees for an academic year,

provided that no scholarship award shall be provided to a student with an annual household income exceeding one hundred fifty thousand dollars ($150,000). This reduction shall be in addition to any reduction required by subdivision (e) of Section 70023.

(B) Notwithstanding subparagraph (A), for any student who qualifies for a scholarship award of at least one dollar ($1), the minimum annual scholarship amount for full-time enrollment is ninety dollars ($90).

(4) For the 2014–15, 2015–16, and 2016–17 academic years, the maximum amount of a student's scholarship award shall be 35 percent, 50 percent, and 75 percent, respectively, of the total scholarship award amount that the student would otherwise be eligible to receive.

(b) In order for students enrolled in their respective segments to remain eligible to receive a scholarship award under this article, the University of California and the California State University shall not supplant their respective institutional need-based grants with the funds provided for scholarships under this article, and shall maintain their funding amounts at a level that, at a minimum, is equal to the level maintained for undergraduate students during the 2013–14 academic year.

(c) The University of California and the California State University shall report on the implementation of this article as part of the report made pursuant to Section 66021.1.

(d) A Middle Class Scholarship Program award authorized pursuant to this article shall be defined as a full-time equivalent grant. An award to a part-time student shall be a fraction of a full-time grant, as determined by the proportionate amount charged for systemwide tuition and fees. A part-time student shall not be discriminated against in the selection of Middle Class Scholarship Program awards. For purposes of this section, ~~"full-time student" and "part-time student"~~ *"full-time" and "part-time"* have the same meaning as specified in subdivision (f) of Section 69432.7.

SEC. 118. Section 70037 of the Education Code is amended to read:

70037. (a) The Trustees of the California State University and the Regents of the University of California shall adopt regulations providing for the withholding of institutional services from ~~students~~ *a student* or former ~~students~~ *student* who ~~have~~ *has* been notified in writing at the student's or former student's last known address

that he or she is in default on a loan or loans under the DREAM Program.

(b) (1) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to either the Trustees of the California State University or the Regents of the University of California, as applicable, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student, which may include, but are not limited to, the following:

(A) The provision of grades.

(B) The provision of transcripts.

(C) The provision of diplomas.

(2) The services withheld pursuant to paragraph (1) shall not include the withholding of registration privileges.

(c) "Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances ~~where~~ *in which* the institution holding the loan finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(d) This section ~~shall~~ *does* not impose any requirement upon the University of California unless the Regents of the University of California, by resolution, makes this section applicable.

SEC. 119. The heading of Article 3 (commencing with Section 72632) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code is repealed.

~~Article 3. Promoting Education~~

SEC. 120. Section 76030 of the Education Code is amended to read:

76030. (a) Consistent with requirements of due process of law, with this article, and with the rules of student conduct adopted by the governing board under Section 66300, the governing board, the president of a community college or the president's designee,

or an instructor shall suspend a student for good cause. In addition, the governing board is authorized to expel a student for good cause when other means of correction fail to bring about proper conduct, or when the presence of the student causes a continuing danger to the physical safety of the student or others. The suspension or expulsion of a student shall be accompanied by a hearing conducted pursuant to the requirements of Section 66017.

(b) (1) Notwithstanding any other law, if ~~good cause for the issuance of~~ an ~~order,~~ *order* requested by a community college ~~district,~~ *district* to protect a campus of a community college ~~district,~~ *district* or any person regularly present on a campus of that ~~district,~~ *district* is issued *upon a finding of good cause* by a court against a student of that community college district, and *the order* prevents that student from attending classes and maintaining his or her academic standing, the community college district may require the student to apply for reinstatement after the expiration of that order. If the district requires the student to apply for reinstatement, it shall do so before the expiration of the protective order. If a student applies for reinstatement under this paragraph, a review with respect to the application shall be conducted. This review, at a minimum, shall include consideration of all of the following issues:

(A) The gravity of the offense.

(B) Evidence of subsequent offenses, if any.

(C) The likelihood that the student would cause substantial disruption if he or she is reinstated.

(2) The governing board of the community college district, or the person to whom authority is delegated pursuant to subdivision (f) of Section 76038, shall take one of the following actions after conducting a review under paragraph (1):

(A) Deny reinstatement.

(B) Permit reinstatement.

(C) Permit conditional ~~reinstatement,~~ *reinstatement* and specify the conditions under which reinstatement will be permitted.

SEC. 121. Section 78261.5 of the Education Code is amended to read:

78261.5. (a) A community college registered nursing program that determines that the number of applicants to that program exceeds its capacity may admit students in accordance with any of the following procedures:

(1) Administration of a multicriteria screening process, as authorized by Section 78261.3, in a manner that is consistent with the standards set forth in subdivision (b).

(2) A random selection process.

(3) A blended combination of random selection and a multicriteria screening process.

(b) A community college registered nursing program that elects, on or after January 1, 2008, to use a multicriteria screening process to evaluate applicants pursuant to this article shall apply those measures in accordance with all of the following:

(1) The criteria applied in a multicriteria screening process under this article shall include, but shall not necessarily be limited to, all of the following:

(A) Academic degrees or diplomas, or relevant certificates, held by an applicant.

(B) Grade-point average in relevant coursework.

(C) Any relevant work or volunteer experience.

(D) Life experiences or special circumstances of an applicant, including, but not necessarily limited to, the following experiences or circumstances:

(i) Disabilities.

(ii) Low family income.

(iii) First generation of family to attend college.

(iv) Need to work.

(v) Disadvantaged social or educational environment.

(vi) Difficult personal and family situations or circumstances.

(vii) Refugee or veteran status.

(E) Proficiency or advanced level coursework in languages other than English. Credit for languages other than English shall be received for languages that are identified by the chancellor as high-frequency languages, as based on census data. These languages may include, but are not necessarily limited to, any of the following:

(i) American Sign Language.

(ii) Arabic.

(iii) Chinese, including its various dialects.

(iv) Farsi.

(v) Russian.

(vi) Spanish.

(vii) Tagalog.

(viii) The various languages of the Indian subcontinent and Southeast Asia.

(2) Additional criteria, such as a personal interview, a personal statement, letter of recommendation, or the number of repetitions of prerequisite classes, or other criteria, as approved by the chancellor, may be used, but are not required.

(3) A community college registered nursing program using a multicriteria screening process under this article may use an approved diagnostic assessment tool, in accordance with Section 78261.3, before, during, or after the multicriteria screening process.

(4) As used in this section:

(A) "Disabilities" has the same meaning as used in Section 2626 of the Unemployment Insurance Code.

(B) "Disadvantaged social or educational environment" includes, but is not necessarily limited to, the status of a student who has participated in Extended Opportunity Programs and Services (EOPS).

(C) "Grade-point average" refers to the same fixed set of required prerequisite courses that all applicants to the nursing program administering the multicriteria screening process are required to complete.

(D) "Low family income" shall be measured by a community college registered nursing program in terms of a student's eligibility for, or receipt of, financial aid under a program that may include, but is not necessarily limited to, a fee waiver from the board of governors under Section 76300, the Cal Grant Program under Chapter 1.7 (commencing with Section 69430) of Part 42 of Division 5, the federal Pell Grant program, or CalWORKs.

(E) "Need to work" means that the student is working at least part time while completing academic work that is a prerequisite for admission to the nursing program.

(5) A community college registered nursing program that uses a multicriteria screening process pursuant to this article shall report its nursing program admissions policies to the chancellor annually, in writing. The admissions policies reported under this paragraph shall include the weight given to any criteria used by the program, and shall include demographic information relating to both the persons admitted to the program and the persons of that group who successfully completed that program.

(c) The chancellor is encouraged to develop, and make available to community college registered nursing programs by July 1, 2008, a model admissions process based on this section.

(d) (1) The chancellor shall submit a report on or before March 1, 2015, and on or before each March 1 thereafter, to the Legislature and the Governor that examines and includes, but is not necessarily limited to, both of the following:

(A) The participation, retention, and completion rates in community college registered nursing programs of students admitted through a multicriteria screening process, as described in ~~Section 78261.5,~~ *this section*, disaggregated by the age, gender, ethnicity, and the language spoken at the home of those students.

(B) Information on the annual impact, if any, the Seymour-Campbell Student Success Act had on the matriculation services for students admitted through the multicriteria screening process, as described in ~~Section 78261.5.~~ *this section.*

(2) The chancellor shall submit the annual report required in paragraph (1) in conjunction with its annual report on associate degree nursing programs required by subdivision (h) of Section 78261.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 122. The heading of Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of Division 7 of Title 3 of the Education Code is repealed.

~~Article 8. Independent Study~~

SEC. 123. The heading of Article 3 (commencing with Section 78440) of Chapter 3 of Part 48 of Division 7 of Title 3 of the Education Code is repealed.

~~Article 3. Education of Handicapped~~

SEC. 124. The heading of Chapter 4 (commencing with Section 78600) of Part 48 of Division 7 of Title 3 of the Education Code is repealed.

~~Chapter 4. Programs for Handicapped Students~~

SEC. 125. The heading of Article 4 (commencing with Section 82360) of Chapter 7 of Part 49 of Division 7 of Title 3 of the Education Code is repealed.

~~Article 4. Cafeterias—Establishment~~

SEC. 126. Section 82542 of the Education Code, as amended by Section 1 of Chapter 233 of the Statutes of 2014, is amended to read:

82542. (a) Except as provided in subdivision (b), the governing board of a community college district shall grant without charge the use of any college facilities or grounds under its control, pursuant to the requirements of this article, when an alternative location is not available, to nonprofit organizations and clubs and associations organized for general character building or welfare purposes, such as:

(1) Student clubs and organizations.

(2) Fundraising entertainments or meetings where admission fees charged or contributions solicited are expended for the welfare of the students of the district.

(3) Parent-teachers' associations.

(4) School-community advisory councils.

(5) Camp Fire Girls, Girl Scout troops, and Boy Scout troops.

(6) Senior citizens' organizations.

(7) Other public agencies.

(8) Organizations, clubs, or associations organized for cultural activities and general character building or welfare purposes, such as folk and square dancing.

(9) Groups organized for the purpose specified in subdivision (k).

(b) The governing board may charge those organizations and activities listed in subdivision (a) an amount not to exceed the following:

(1) The cost of opening and closing the facilities, if no college employees would otherwise be available to perform that function as a part of their normal duties.

(2) The cost of a college employee's presence during the organization's use of the facilities, if the governing board determines that the supervision is needed, and if that employee would not otherwise be present as part of his or her normal duties.

(3) The cost of janitorial services, if the services are necessary, and would not have otherwise been performed as part of the janitor's normal duties.

(4) The cost of utilities directly attributable to the organization's use of the facilities.

(c) The governing board may charge an amount not to exceed its direct costs or not to exceed fair rental value of college facilities and grounds under its control, and pursuant to the requirements of this article, for activities other than those specified in subdivision (a). A governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs and which activities shall be charged an amount not to exceed fair rental value.

(d) (1) As used in this section, "direct costs" to the district for the use of college facilities or grounds includes all of the following:

(A) The share of the costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid to community college district employees to operate and maintain college facilities or grounds that is proportional to the organization's use of the college facilities and grounds of the district under this section.

(B) The share of the costs for maintenance, repair, restoration, and refurbishment, proportional to the use of the college facilities or grounds by the organization using the college facilities or grounds under this section. For purposes of this subparagraph, "college facilities" shall be limited to only nonclassroom space, and "grounds" shall include, but not be limited to, playing fields, athletic fields, track and field venues, tennis courts, and outdoor basketball courts.

(2) The share of the costs for maintenance, repair, restoration, and refurbishment shall not apply to either of the following:

(A) Classroom-based programs that operate after school hours, including, but not limited to, after school programs, tutoring programs, or child care programs.

(B) Organizations retained by the college or community college district to provide instruction or instructional activities to students during school hours.

(3) Funds collected pursuant to this subdivision shall be deposited into a special fund that shall only be used for purposes of this section.

(e) By December 31, 2015, the Chancellor of the California Community Colleges shall develop, and the Board of Governors of the California Community Colleges shall adopt, regulations to be used by a governing board of a community college *district* in determining the proportionate share and the specific allowable costs that a community college district may include as direct costs for the use of its college facilities or grounds.

(f) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the college facilities or grounds used for the duration of the activity authorized.

(g) The governing board of a community college district that authorizes the use of college facilities or grounds for the purpose specified in subdivision (h) shall charge the church or religious denomination an amount at least equal to the fair rental value of the facilities or grounds.

(h) The governing board of a community college district may grant the use of college facilities or grounds to any church or religious organization for the conduct of religious services for temporary periods where the church or organization has no suitable meeting place for the conduct of these services upon the terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article. The governing board shall charge the church or religious organization using the property for the conduct of religious services a fee as specified in subdivision (g).

(i) For entertainment or a meeting where an admission fee is charged or a contribution is solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the students of the district or for charitable purposes, a charge equal to fair rental value shall be levied for the use of the college facilities, property, and grounds, as determined by the governing board of the district.

(j) The governing board may permit the use, without charge, by organizations, clubs, or associations organized for senior citizens and for cultural activities and general character building or welfare purposes, when membership dues or contributions solely for the support of the organization, club, or association, or the advancement of its cultural, character ~~building~~ *building,* or welfare work, are accepted.

(k) The governing board of a community college district may grant the use of college facilities, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare, and may cooperate with these agencies in furnishing and maintaining services deemed by the governing board to be necessary to meet the needs of the community.

(*l*) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 127. Section 82542 of the Education Code, as added by Section 2 of Chapter 233 of the Statutes of 2014, is amended to read:

82542. (a) Except as provided in subdivision (b), the governing board of a community college district shall grant without charge the use of any college facilities or grounds under its control, pursuant to the requirements of this article, when an alternative location is not available, to nonprofit organizations and clubs and associations organized for general character building or welfare purposes, such as:

(1) Student clubs and organizations.

(2) Fundraising entertainments or meetings where admission fees charged or contributions solicited are expended for the welfare of the students of the district.

(3) Parent-teachers' associations.

(4) School-community advisory councils.

(5) Camp Fire Girls, Girl Scout troops, and Boy Scout troops.

(6) Senior citizens' organizations.

(7) Other public agencies.

(8) Organizations, clubs, or associations organized for cultural activities and general character building or welfare purposes, such as folk and square dancing.

(9) Groups organized for the purpose specified in subdivision (g).

(b) The governing board may charge those organizations and activities listed in subdivision (a) an amount not to exceed the following:

(1) The cost of opening and closing the facilities, if no college employees would otherwise be available to perform that function as a part of their normal duties.

(2) The cost of a college employee's presence during the organization's use of the facilities, if the governing board determines that the supervision is needed, and if that employee would not otherwise be present as part of his or her normal duties.

(3) The cost of janitorial services, if the services are necessary, and would not have otherwise been performed as part of the janitor's normal duties.

(4) The cost of utilities directly attributable to the organization's use of the facilities.

(c) The governing board may charge an amount not to exceed its direct costs or not to exceed fair rental value of college facilities and grounds under its control, and pursuant to the requirements of this article, for activities other than those specified in subdivision (a). A governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs and which activities shall be charged an amount not to exceed fair rental value.

(1) As used in this section, "direct costs" to the district for the use of college facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid community college district employees necessitated by the organization's use of the college facilities and grounds of the district.

(2) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the college facilities or grounds used for the duration of the activity authorized.

(d) The governing board of a community college district that authorizes the use of college facilities or grounds for the purpose specified in subdivision (e) shall charge the church or religious denomination an amount at least equal to the fair rental value of the facilities or grounds.

(e) The governing board of a community college district may grant the use of college facilities or grounds to any church or religious organization for the conduct of religious services for temporary periods where the church or organization has no suitable meeting place for the conduct of these services upon the terms and conditions as the board deems proper, and subject to the limitations,

requirements, and restrictions set forth in this article. The governing board shall charge the church or religious organization using the property for the conduct of religious services a fee as specified in subdivision (d).

(f) For entertainment or a meeting where an admission fee is charged or a contribution is solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the students of the district or for charitable purposes, a charge shall be made for the use of the college facilities, property, and grounds, which charge shall not be less than the fair rental value for the use of the college facilities, property, and grounds, as determined by the governing board of the district.

(g) The governing board may permit the use, without charge, by organizations, clubs, or associations organized for senior citizens and for cultural activities and general character building or welfare purposes, when membership dues or contributions solely for the support of the organization, club, or association, or the advancement of its cultural, character ~~building~~ *building*, or welfare work, are accepted.

(h) The governing board of a community college district may grant the use of college facilities, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare, and may cooperate with these agencies in furnishing and maintaining services deemed by the governing board to be necessary to meet the needs of the community.

(i) This section is operative on and after January 1, 2020.

SEC. 128. The heading of Article 1 (commencing with Section 84300) of Chapter 3 of Part 50 of Division 7 of Title 3 of the Education Code is repealed.

~~Article 1. Maintenance, Disbursements and Sources~~

SEC. 129. The heading of Article 2 (commencing with Section 85210) of Chapter 8 of Part 50 of Division 7 of Title 3 of the Education Code is repealed.

~~Article 2. Appropriation of Excess Income~~

SEC. 130. Section 87782 of the Education Code is amended to read:

87782. (a) An academic employee of a community college district who has been an employee of that district for a period of one school year or more shall have transferred with him or her to a second district the total amount of leave of absence for illness or injury to which he or she is entitled under Section 87781 in any of the following circumstances:

(1) The person accepts an academic position in a school district or community college district at any time during the second or any succeeding school year of his or her employment with the first district.

(2) The person, within the three school years succeeding the school year in which the employment in the first district is terminated, signifies acceptance of his or her election or employment in an academic position in another district.

(3) The person, prior to the expiration of a period greater than three years during which the employee's reemployment rights are in effect under a local bargaining agreement in the first district, signifies acceptance of his or her election or employment in an academic position in another district.

(b) The board of governors shall adopt rules and regulations prescribing the manner in which the first district shall certify to the second district the total amount of leave of absence for illness or injury to be transferred. No governing board shall adopt any policy or rule, written or unwritten, ~~which~~ *that* requires any employee transferring to its district to waive any part or all of the leave of absence ~~which~~ *that* he or she may be entitled to have transferred in accordance with this section.

SEC. 131. Section 87784.5 of the Education Code is amended to read:

87784.5. (a) An academic employee may take up to 30 days of leave in a school year, less ~~than~~ any days of leave authorized pursuant to Sections 87781.5 and 87784, in either of the following circumstances:

(1) A biological parent may use leave pursuant to this section within the first year of his or her infant's birth.

(2) A nonbiological parent may use leave pursuant to this section within the first year of legally adopting a child.

(b) If the provisions of this section are in conflict with the terms of a collective bargaining agreement in effect before January 1, 2015, the provisions of this section ~~shall~~ *do* not apply to the public employer and public employees subject to that agreement until the expiration or renewal of the agreement.

SEC. 132. Section 88207.5 of the Education Code is amended to read:

88207.5. (a) A contract or regular employee may use up to 30 days of leave in a school year, less ~~than~~ any days of leave authorized pursuant to Section 88207, in either of the following circumstances:

(1) A biological parent may use leave pursuant to this section within the first year of his or her infant's birth.

(2) A nonbiological parent may use leave pursuant to this section within the first year of legally adopting a child.

(b) If the provisions of this section are in conflict with the terms of a collective bargaining agreement in effect before January 1, 2015, the provisions of this section ~~shall~~ *do* not apply to the public employer and public employees subject to that agreement until the expiration or renewal of the agreement.

SEC. 133. Section 89005 of the Education Code is amended to read:

89005. All references in ~~any~~ law or regulation to the "California State Colleges," to the "California State University and Colleges," or to "state colleges" shall be deemed to refer to the California State University and to the system of institutions of higher education ~~which~~ *that* comprises the California State ~~Univerity~~ *University* as authorized in Section 89001. The term "campus" shall mean any of the institutions included within the California State University specified in Section 89001.

SEC. 134. Section 89295 of the Education Code is amended to read:

89295. (a) For purposes of this section, the following terms are defined as follows:

(1) The "four-year graduation rate" means the percentage of a cohort of undergraduate students who entered the university as freshmen at any campus and graduated from any campus within four years.

(2) The "six-year graduation rate" means the percentage of a cohort of undergraduate students who entered the university as

freshmen at any campus and graduated from any campus within six years.

(3) The "two-year transfer graduation rate" means the percentage of a cohort of undergraduate students who entered the university at any campus as junior-level transfer students from the California Community Colleges and graduated from any campus within two years.

(4) The "three-year transfer graduation rate" means the percentage of a cohort of undergraduate students who entered the university *at any campus* as junior-level transfer students from the California Community Colleges ~~at any campus~~ and graduated from any campus within three years.

(5) The "four-year transfer graduation rate" means the percentage of a cohort of undergraduate students who entered the university *at any campus* as junior-level transfer students from the California Community Colleges ~~at any campus~~ and graduated from any campus within four years.

(6) "Low-income student" means an undergraduate student who has an expected family contribution, as defined in subdivision (g) of Section 69432.7, at any time during the student's matriculation at the institution that would qualify the student to receive a federal Pell Grant. The calculation of a student's expected family contribution shall be based on the Free Application for Federal Student Aid (FAFSA) application or an application determined by the ~~California~~ Student Aid Commission to be equivalent to the FAFSA application submitted by that applicant.

(b) Commencing with the 2013–14 academic year, the California State University shall report, by March 15 of each year, on the following performance measures for the preceding academic year, to inform budget and policy decisions and promote the effective and efficient use of available resources:

(1) The number of California Community College transfer students enrolled and the percentage of California Community College transfer students as a proportion of the total number of undergraduate students enrolled.

(2) The number of new California Community College transfer students enrolled and the percentage of new California Community College transfer students as a proportion of the total number of new undergraduate students enrolled.

(3) The number of low-income students enrolled and the percentage of low-income students as a proportion of the total number of undergraduate students enrolled.

(4) The number of new low-income students enrolled and the percentage of *new* low-income students as a proportion of the total number of new undergraduate students enrolled.

(5) The four-year graduation rate for students who entered the university four years prior and, separately, for low-income students in that cohort.

(6) The four-year and six-year graduation rates for students who entered the university six years prior and, separately, for low-income students in that cohort.

(7) The two-year transfer graduation rate for students who entered the university two years prior and, separately, for low-income students in that cohort.

(8) The two-year and three-year transfer graduation rates for students who entered the university three years prior and, separately, for low-income students in that cohort.

(9) The two-year, three-year, and four-year transfer graduation rates for students who entered the university four years prior and, separately, for low-income students in that cohort.

(10) The number of degree completions annually, in total and for the following categories:

(A) Freshman entrants.

(B) California Community College transfer students.

(C) Graduate students.

(D) Low-income students.

(11) The percentage of freshman entrants who have earned sufficient course credits by the end of their first year of enrollment to indicate that they will graduate within four years.

(12) The percentage of California Community College transfer students who have earned sufficient course credits by the end of their first year of enrollment to indicate that they will graduate within two years.

(13) For all students, the total amount of funds received from all sources identified in subdivision (c) of Section 89290 for the year, divided by the number of degrees awarded that same year.

(14) For undergraduate students, the total amount of funds received from all sources identified in subdivision (c) of Section

89290 for the year expended for undergraduate education, divided by the number of undergraduate degrees awarded that same year.

(15) The average number of California State University course credits and the total course credits, including credits accrued at other institutions, accumulated by all undergraduate students who graduated, and separately for freshman entrants and California Community College transfer students.

(16) (A) The number of degree completions in science, technology, engineering, and mathematics (STEM) fields, in total, and separately for undergraduate students, graduate students, and low-income students.

(B) For purposes of subparagraph (A), "STEM fields" include, but are not necessarily limited to, all of the following: computer and information sciences, engineering and engineering technologies, biological and biomedical sciences, mathematics and statistics, physical sciences, and science technologies.

(c) It is the intent of the Legislature that the appropriate policy and fiscal committees of the Legislature review these performance measures in a collaborative process with the Department of Finance, the Legislative Analyst's Office, individuals with expertise in statewide accountability efforts, the University of California, the California State University, and, for purposes of data integrity and consistency, the California Community Colleges, and consider any recommendations for their modification and refinement. It is further the intent of the Legislature that any modification or refinement of these measures be guided by the legislative intent expressed in Section 66010.93.

SEC. 135. Section 89500.7 of the Education Code is amended to read:

89500.7. (a) The trustees shall offer, on at least a semiannual basis, to each of the university's filers, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of university officials.

(b) As used in this section, "filer" means each member, officer, or designated employee of the California State University, including a trustee, who, because of his or her affiliation with the university or any subdivision or campus thereof, is required to file a Statement of Economic Interests in accordance with Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code.

(c) The trustees shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to this section. These records shall be maintained for a period of at least five years after each course is offered. These records shall be public records subject to inspection and copying in accordance with ~~subdivision (a) of~~ Section 81008 of the Government Code and any other public records disclosure laws that are applicable to the university.

(d) Except as provided in subdivision (e), each filer shall attend the orientation course established pursuant to subdivision (a) in accordance with both of the following:

(1) For a person who, as of January 1, 2005, is a filer, as defined in subdivision (b), not later than December 31, 2005, and thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2007.

(2) For a person who becomes a filer, as defined in subdivision (b), after January 1, 2005, within six months after he or she becomes a filer, and at least once during each consecutive period of two calendar years commencing on January 1 of the first odd-numbered year thereafter.

(e) The requirements of subdivision (d) ~~shall~~ *do* not apply to a filer, as defined in subdivision (b), who has taken an ethics orientation course through another state agency or the Legislature within the periods set forth in paragraphs (1) and (2) of subdivision (d) if, in the determination of the trustees, that course covered substantially the same material as the course the university would offer to the filer pursuant to this section.

SEC. 136. Section 89770 of the Education Code is amended to read:

89770. (a) (1) The California State University may pledge, in addition to any of its other revenues that the university chooses to pledge, its annual General Fund support appropriation less the amount of that appropriation required to fund general obligation bond payments and State Public Works Board rental payments, to secure the payment of debt obligations issued by the Trustees of the California State University pursuant to the State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8).

(2) To the extent the university pledges any part of its support appropriation as a source of revenue securing any obligation, it

shall provide that this commitment of revenue is subject to annual appropriation by the Legislature.

(3) The university may fund debt service for capital expenditures defined in subdivision (b), and the costs or expenses incidental to the issuance and sale of bonds to finance those costs, including, but not limited to, capitalized interest on the bonds, from its General Fund support appropriation pursuant to Sections 89772 and 89773.

(4) The state hereby covenants with the holders of the university's obligations, secured by the pledge of the university authorized by this section, *that* so long as any of the obligations referred to in this subdivision remain outstanding, the state will not impair or restrict the ability of the university to pledge any support appropriation or support appropriations that may be enacted for the university. The university may include this covenant of the state in the agreements or other documents underlying the university's obligations to this effect.

(b) For purposes of this section, "capital expenditures" means any of the following:

(1) The costs to acquire real property to design, construct, or equip academic facilities to address seismic and life safety needs, enrollment growth, or modernization of out-of-date facilities, and renewal or expansion of infrastructure to serve academic programs.

(2) The debt service amount associated with refunding, defeasing, or retiring State Public Works Board lease revenue bonds.

(3) The costs to design, construct, or equip energy conservation projects.

(4) The costs of deferred maintenance of academic facilities and related infrastructure.

(c) ~~Nothing in this~~ *This* section ~~shall~~ *does not* require the Legislature to make an appropriation from the General Fund in any specific amount to support the California State University.

(d) The ability to utilize its support appropriation as stated in this section shall not be used as a justification for future increases in student tuition, additional employee layoffs, or reductions in employee compensation at the California State University.

SEC. 137. Section 92611.7 of the Education Code is amended to read:

92611.7. (a) The regents are urged to offer, on at least a semiannual basis, to each of the university's filers, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of university officials.

(b) As used in this section, "filer" means each member, officer, or designated employee of the University of California, including a regent, who, because of his or her affiliation with the university or any subdivision or campus thereof, is required to file a statement of economic interests in accordance with Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code.

(c) The regents shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to this section. These records shall be maintained for a period of at least five years after each course is offered. These records shall be public records subject to inspection and copying in accordance with ~~subdivision (a) of~~ Section 81008 of the Government Code and any other public records disclosure laws that are applicable to the university.

(d) Except as provided in subdivision (e), each filer shall attend the orientation course established pursuant to subdivision (a) in accordance with both of the following:

(1) For a person who, as of January 1, 2005, is a filer, as defined in subdivision (b), not later than December 31, 2005, and thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2007.

(2) For a person who becomes a filer, as defined in subdivision (b), after January 1, 2005, within six months after he or she becomes a filer, and at least once during each consecutive period of two calendar years commencing on January 1 of the first odd-numbered year thereafter.

(e) The requirements of subdivision (d) ~~shall~~ *do* not apply to a filer, as defined in subdivision (b), who has taken an ethics orientation course through another state agency or the Legislature within the periods set forth in paragraphs (1) and (2) of subdivision (d) if, in the determination of the regents, that course covered substantially the same material as the course the university would offer to the filer pursuant to this section.

SEC. 138. Section 92675 of the Education Code is amended to read:

92675. (a) For purposes of this section, the following terms are defined as follows:

(1) The "four-year graduation rate" means the percentage of a cohort of undergraduate students who entered the university as freshmen at any campus and graduated from any campus within four years.

(2) The "two-year transfer graduation rate" means the percentage of a cohort of undergraduate students who entered the university at any campus as junior-level transfer students from the California Community Colleges and graduated from any campus within two years.

(3) "Low-income student" means an undergraduate student who has an expected family contribution, as defined in subdivision (g) of Section 69432.7, at any time during the student's matriculation at the institution that would qualify the student to receive a federal Pell Grant. The calculation of a student's expected family contribution shall be based on the Free Application for Federal Student Aid (FAFSA) application or an application determined by the ~~California~~ Student Aid Commission to be equivalent to the FAFSA application submitted by that applicant.

(b) Commencing with the 2013–14 academic year, the University of California shall report, by March 15 of each year, on the following performance measures for the preceding academic year, to inform budget and policy decisions and promote the effective and efficient use of available resources:

(1) The number of transfer students enrolled from the California Community Colleges, and the percentage of California Community College transfer students as a proportion of the total number of undergraduate students enrolled.

(2) The number of new transfer students enrolled from the California Community Colleges, and the percentage of *new* California Community College transfer students as a proportion of the total number of new undergraduate students enrolled.

(3) The number of low-income students enrolled and the percentage of low-income students as a proportion of the total number of undergraduate students enrolled.

(4) The number of new low-income students enrolled and the percentage of *new* low-income students as a proportion of the total number of new undergraduate students enrolled.

(5) The four-year graduation rate for students who entered the university four years prior and, separately, for low-income students in that cohort.

(6) The two-year transfer graduation rate for students who entered the university two years prior and, separately, for low-income students in that cohort.

(7) The number of degree completions, in total and for the following categories:

(A) Freshman entrants.

(B) California Community College transfer students.

(C) Graduate students.

(D) Low-income students.

(8) The percentage of freshman entrants who have earned sufficient course credits by the end of their first year of enrollment to indicate they will graduate within four years.

(9) The percentage of California Community College transfer students who have earned sufficient course credits by the end of their first year of enrollment to indicate they will graduate within two years.

(10) For all students, the total amount of funds received from all sources identified in subdivision (c) of Section 92670 for the year, divided by the number of degrees awarded that same year.

(11) For undergraduate students, the total amount of funds received from the sources identified in subdivision (c) of Section 92670 for the year expended for undergraduate education, divided by the number of undergraduate degrees awarded that same year.

(12) The average number of University of California course credits and total course credits, including credit accrued at other institutions, accumulated by all undergraduate students who graduated, and separately for freshman entrants and California Community College transfer students.

(13) (A) The number of degree completions in science, technology, engineering, and mathematics (STEM) fields, in total, and separately for undergraduate students, graduate students, and low-income students.

(B) For purposes of subparagraph (A), “STEM fields” include, but are not necessarily limited to, all of the following: computer and information sciences, engineering and engineering technologies, biological and biomedical sciences, mathematics and statistics, physical sciences, and science technologies.

(c) It is the intent of the Legislature that the appropriate policy and fiscal committees of the Legislature review these performance measures in a collaborative process with the Department of Finance, the Legislative Analyst's Office, individuals with expertise in statewide accountability efforts, the University of California, the California State University, and, for purposes of data integrity and consistency, the California Community Colleges, and consider any recommendations for their modification and refinement. It is further the intent of the Legislature that any modification or refinement of these measures be guided by the legislative intent expressed in Section 66010.93.

SEC. 139. Section 94143 of the Education Code is amended to read:

94143. The authority is authorized from time to time to issue its notes for any corporate purpose and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, ~~executed~~ *executed,* and delivered in the same manner as bonds. A resolution or resolutions authorizing notes of the authority or any issue of notes of the authority may contain any provisions that the authority is authorized to include in a resolution or resolutions authorizing bonds of the authority or any issue of bonds of the authority, and the authority may include in the notes any terms, ~~covenants~~ *covenants,* or conditions that it is authorized to include in bonds. Notes issued by the authority shall be payable from revenues of the authority or other moneys available for payment of notes and not otherwise pledged, subject only to any contractual rights of the holders of its notes or other obligations then outstanding.

SEC. 140. Section 94145.5 of the Education Code is amended to read:

94145.5. ~~Any~~ *A* provision *that* the authority may include in a trust agreement ~~of~~ or resolution providing for the issuance of bonds pursuant to this chapter may also be included in a bond and ~~the provision~~ shall have the same effect.

SEC. 141. Section 94880 of the Education Code is amended to read:

94880. (a) There is within the bureau a 14-member advisory committee. On or before July 1, 2015, the members of the committee shall be appointed as follows:

(1) Three members, who shall have a demonstrated record of advocacy on behalf of consumers, of which the director, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint one member.

(2) Two members, who shall be current or past students of institutions, appointed by the director.

(3) Three members, who shall be representatives of institutions, appointed by the director.

(4) Two members, ~~which~~ *who* shall be employers ~~that~~ *who* hire students, appointed by the director.

(5) One public member appointed by the Senate Committee on Rules.

(6) One public member appointed by the Speaker of the Assembly.

(7) Two nonvoting, ex officio members as follows:

(A) The chair of the policy committee of the Assembly with jurisdiction over legislation relating to the bureau or designee appointed by the Speaker of the Assembly.

(B) The chair of the policy committee of the Senate with jurisdiction over legislation relating to the bureau or designee appointed by the Senate Committee on Rules.

(b) (1) A public member shall not, either at the time of his or her appointment or during his or her tenure in office, have any financial interest in any organization currently or previously subject to regulation by the bureau, be a close family member of an employee, officer, or the director of any institution subject to regulation by the bureau, or currently have, or previously have had, a business relationship, in the five years preceding his or her appointment, with any institution subject to regulation by the bureau.

(2) A public member shall not, within the five years immediately preceding his or her appointment, have engaged in pursuits on behalf of an institution or institutional accreditor or have provided representation to the postsecondary educational industry or a profession regulated by the bureau, if he or she is employed in the industry or a member of the profession, respectively, and he or

she shall not engage in those pursuits or provide that representation during his or her term of office.

(c) The advisory committee shall examine the oversight functions and operational policies of the bureau and advise the bureau with respect to matters relating to private postsecondary education and the administration of this chapter, including annually reviewing the fee schedule and the equity of the schedule relative to the way institutions are structured, and the licensing and enforcement provisions of this chapter. The advisory committee shall make recommendations with respect to policies, practices, and regulations relating to private postsecondary education, and shall provide any assistance as may be requested by the bureau.

(d) The bureau shall actively seek input from, and consult with, the advisory committee regarding the development of regulations to implement this chapter prior to the adoption, amendment, or repeal of its regulations, and provide the advisory committee with sufficient time to review and comment on those regulations. The bureau shall take into consideration and respond to all feedback provided by members of the advisory committee.

(e) The bureau chief shall attend all advisory committee meetings and shall designate staff to provide ongoing administrative support to the advisory committee.

(f) Until January 1, 2017, the director shall personally attend, and testify and answer questions at, each meeting of the advisory committee.

(g) The advisory committee shall have the same access to records within the Department of Consumer Affairs related to the operation and administration of this chapter as do members of constituent boards of the department in regard to records related to their functions.

(h) Advisory committee meetings shall be subject to the Bagley-Keene Open Meeting ~~Act.~~ *Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code)*. Advisory committee meeting materials shall be posted on the Internet.

(i) The advisory committee shall meet at least quarterly and shall appoint a member of the committee to represent the committee for purposes of communicating with the Legislature.

(j) The Department of Consumer Affairs shall review, and revise if necessary, the department's conflicts of interest regulations to

ensure that each advisory committee member is required to disclose conflicts of interest to the public.

SEC. 142. Section 2150 of the Elections Code, as amended by Section 3 of Chapter 619 of the Statutes of 2014, is amended to read:

2150. (a) The affidavit of registration shall show:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. A person shall not be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and ~~e-mail~~ *email* address, if furnished. A person shall not be denied the right to register because of his or her failure to furnish a telephone number or ~~e-mail~~ *email* address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election. In the case of an affidavit of registration submitted pursuant to subdivision (d) of Section 2102, the affiant's date of birth to establish that he or she is at least 16 years of age.

(6) The state or country of the affiant's birth.

(7) (A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number.

(B) In the case of any other applicant, other than an applicant to whom subparagraph (C) applies, the last four digits of the applicant's social security number.

(C) If an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that will serve to identify the applicant for voter registration purposes. To the extent that the state has a computerized list in effect under this subdivision and the list assigns unique identifying numbers to registrants, the

number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party preference.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as preferring another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write he or she shall sign with a mark or cross.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant shall not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) If a person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

(e) The affidavit of registration shall also contain a space to permit the affiant to apply for permanent vote by mail status.

(f) The Secretary of State may continue to supply existing affidavits of registration to county elections officials ~~prior to~~ *before* printing new or revised forms that reflect the changes made to this section by the act that added this subdivision.

SEC. 143. Section 2157 of the Elections Code is amended to read:

2157. (a) Subject to this chapter, the paper affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. The affidavit shall comply with all of the following:

(1) Contain the information prescribed in Section 2150.

(2) Be sufficiently uniform among the separate counties to allow for the processing and use by one county of an affidavit completed in another county.

(3) Allow for the inclusion of informational language to meet the specific needs of that county, including, but not limited to, the return address of the elections official in that county, and a

telephone number at which a voter can obtain elections information in that county.

(4) Be included on one portion of a multipart card, to be known as a voter registration card, the other portions of which shall include information sufficient to facilitate completion and mailing of the affidavit. The affidavit portion of the multipart card shall be numbered according to regulations adopted by the Secretary of State. For purposes of facilitating the distribution of voter registration cards as provided in Section 2158, there shall be attached to the affidavit portion a receipt. The receipt shall be separated from the body of the affidavit by a perforated line.

(5) Contain, in a type size and color of ink that is clearly distinguishable from surrounding text, a statement identical or substantially similar to the following:

"Certain voters facing life-threatening situations may qualify for confidential voter status. For more information, please contact the Secretary of State's Safe ~~At~~ *at* Home program or visit the Secretary of State's Web site."

(6) Contain, in a type size and color of ink that is clearly distinguishable from surrounding text, a statement that the use of voter registration information for commercial purposes is a misdemeanor pursuant to subdivision (a) of Section 2194 and Section 18109, and any suspected misuse shall be reported to the Secretary of State.

(7) Contain a toll-free fraud hotline telephone number maintained by the Secretary of State that the public may use to report suspected fraudulent activity concerning misuse of voter registration information.

(8) Be returnable to the county elections official as a self-enclosed mailer with postage prepaid by the Secretary of State.

(b) ~~Nothing contained in this~~ *This* division ~~shall~~ *does not* prevent the use of voter registration cards and affidavits of registration in existence on the effective date of this section and produced pursuant to regulations of the Secretary of State, and all references to voter registration cards and affidavits in this division shall be applied to the existing voter registration cards and affidavits of registration.

(c) The Secretary of State may continue to supply existing affidavits of registration ~~prior to~~ *before* printing new or revised

forms that reflect the changes required pursuant to this section, Section 2150, or Section 2160.

(d) An affidavit of registration shall not be submitted electronically on a county's Internet Web site. However, a county may provide a hyperlink on the county's Internet Web site to the Secretary of State's electronic voter registration system.

SEC. 144. Section 8040 of the Elections Code is amended to read:

8040. (a) The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a candidate for nomination to the office of _____ District Number _____ to be voted for at the primary election to be held _____, 20__, and declare the following to be true:

My name is _____.

I want my name and occupational designation to appear on the ballot as follows: _____.

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

Web site: _____

I meet the statutory and constitutional qualifications for this office (including, but not limited to, citizenship, residency, and party preference, if required).

I am at present an incumbent of the following public office (if any) _____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

A candidate for voter-nominated office shall also complete all of the following:

(1) I hereby certify that:

(a) At the time of presentation of this declaration, as shown by my current affidavit of registration, I have disclosed the following political party preference, if any: _____.

(b) My complete voter registration and party affiliation/preference history, from [10 years prior to current year] through the date of signing this document, is as follows:

Party Registration	County	Timeframe (by year)
_____	_____	_____
_____	_____	_____
_____	_____	_____

(2) Pursuant to Section 8002.5 of the Elections Code, select one of the following:

_____ Party Preference: _____ (insert the name of the qualified political party as disclosed upon your affidavit of registration).

_____ Party Preference: None (if you have declined to disclose a preference for a qualified political party upon your affidavit of registration).

Dated this ___ day of _____, 20___.

_____
Signature of candidate

State of California)
County of _____) ss.
)

Subscribed and sworn to before me this ___ day of _____, 20____.

_____
Notary Public (or other official)

Examined and certified by me this _____ day of _____, 20____.

_____
County Elections Official

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his or her possession which is entitled to be filed under the provisions of the Elections Code Section 18202.

(b) At the discretion of the elections ~~official,a~~ *official, a* candidate for a judicial office, or a candidate for any office whose voter registration information is confidential under Section 2166, 2166.5, or 2166.7, may withhold his or her residence address from the declaration of candidacy. If a candidate does not state his or her residence address on the declaration of candidacy, the elections official shall verify ~~whether~~ *if* the candidate's address is within the appropriate political subdivision and add the notation "verified" where appropriate on the declaration.

SEC. 145. Section 3201 of the Family Code, as added by Section 2 of Chapter 1004 of the Statutes of 1999, is amended and renumbered to read:

~~3201.~~

3201.5. (a) The programs described in this chapter shall be administered by the family law division of the superior court in the county.

(b) For purposes of this chapter, "education about protecting children during family disruption" includes education on parenting skills and the impact of parental conflict on children, how to put a parenting agreement into effect, and the responsibility of both parents to comply with custody and visitation orders.

SEC. 146. Section 3690 of the Family Code, as added by Section 6 of Chapter 653 of the Statutes of 1999, is repealed.

~~3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.~~

~~(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.~~

~~(c) Nothing in this article shall limit or modify the provisions of Section 11356 or 11356.2 of the Welfare and Institutions Code.~~

~~(d) This section shall not be operative if Assembly Bill 196, of the 1999–2000 Regular Session, is enacted and becomes operative.~~

SEC. 147. The heading of Article 3 (commencing with Section 3780) of Chapter 7 of Part 1 of Division 9 of the Family Code is repealed.

~~Article 3. Assignment of Reimbursement Rights Under Health Plan~~

SEC. 148. Section 4051 of the Family Code is repealed.

~~4051. This article takes effect on July 1, 1992.~~

SEC. 149. Section 6203 of the Family Code is amended to read:

6203. (a) For purposes of this act, "abuse" means any of the following:

(1) ~~Intentionally~~ *To intentionally* or recklessly ~~to~~ cause or attempt to cause bodily injury.

(2) Sexual assault.

(3) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(4) To engage in any behavior that has been or could be enjoined pursuant to Section 6320.

(b) Abuse is not limited to the actual infliction of physical injury or assault.

SEC. 150. Section 6301 of the Family Code is amended to read:

6301. (a) An order under this part may be granted to any person described in Section 6211, including a minor pursuant to subdivision (b) of Section 372 of the Code of Civil Procedure.

(b) The right to petition for relief shall not be denied because the petitioner has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for dissolution of marriage, for nullity of marriage, or for legal separation of the parties has not been filed.

(c) The length of time since the most recent act of abuse is not, by itself, determinative. The court shall consider the totality of the circumstances in determining whether *to grant or deny* a petition for relief ~~will be granted or denied~~.

SEC. 151. Section 7613.5 of the Family Code is amended to read:

7613.5. (a) An intended parent may, but is not required to, use the forms set forth in this section to demonstrate his or her intent to be a legal parent of a child conceived through assisted reproduction. These forms shall satisfy the writing requirement specified in Section 7613, and are designed to provide clarity

regarding the intentions, at the time of conception, of intended parents using assisted reproduction. These forms do not affect any presumptions of parentage based on Section 7611, and do not preclude a court from considering any other claims to parentage under California statute or case law.

(b) These forms apply only in very limited circumstances. Please read the forms carefully to see if you qualify for use of the forms.

(c) These forms do not apply to assisted reproduction agreements for gestational carriers or surrogacy agreements.

(d) ~~Nothing in this~~ *This* section shall *not* be interpreted to require the use of one of these forms to satisfy the writing requirement of Section 7613.

(e) The following are the optional California Statutory Forms for Assisted Reproduction:

California Statutory Forms for Assisted Reproduction, Form 1:

Married Spouses or Registered Domestic Partners Using Assisted Reproduction to Conceive a Child

Use this form if: (1) You and the other person are married spouses or registered domestic partners (including registered domestic partners or civil union partners from another jurisdiction); (2) you and the other person are conceiving a child through assisted reproduction using sperm and/or egg donation; and (3) one of you will be giving birth.

WARNING: Signing this form does not terminate the parentage claim of a sperm donor. A sperm donor's claim to parentage is terminated if the sperm is provided to a licensed physician or surgeon or to a licensed sperm bank prior to insemination as required by Section 7613(b) of the Family Code.

The laws about parentage of a child are complicated. **You are strongly encouraged to consult with an attorney about your rights.** Even if you do not fill out this form, a spouse or domestic partner of the parent giving birth is presumed to be a legal parent of any child born during the marriage or domestic partnership.

This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using sperm and/or egg donation.

I, _____ (print name of spouse/partner), am married to, or in a registered domestic partnership (including a registered domestic partnership or civil union from another jurisdiction) with, a person who will give birth to a child we plan to conceive through assisted reproduction using sperm and/or egg donation. I consent to the use of assisted reproduction by my spouse/domestic partner to conceive a child. I INTEND to be a parent of the child conceived.

SIGNATURES

Intended parent who will give birth: _____ (print name)
_____ (signature) _____(date)

Intended parent spouse or registered domestic partner: _____ (print name)
_____ (signature) _____(date)

_____

NOTARY ACKNOWLEDGMENT

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

California Statutory Forms for Assisted Reproduction, Form 2:

Unmarried, Intended Parents Using Intended Parent's Sperm to Conceive a Child

Use this form if: (1) Neither you or the other person are married or in a registered domestic partnership (including a registered domestic partnership or civil union from another state); (2) one of you will give birth to a child conceived through assisted reproduction using the intended parent's sperm; and (3) you both intend to be parents of that child.

Do not use this form if you are conceiving using a surrogate.

WARNING: If you do not sign this form, you may be treated as a sperm donor if your sperm is provided to a licensed physician or surgeon or to a licensed sperm bank prior to insemination according to Section 7613(b) of the Family Code.

The laws about parentage of a child are complicated. **You are strongly encouraged to consult with an attorney about your rights.**

This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using sperm donation.

I, _____ (print name of parent giving birth), plan to use assisted reproduction with another intended parent who is providing sperm to conceive the child. I am not married and am not in a registered domestic partnership (including a registered domestic partnership or civil union from another jurisdiction), and I INTEND for the person providing sperm to be a parent of the child to be conceived.

I, _____ (print name of parent providing sperm), plan to use assisted reproduction to conceive a child using my sperm with the parent giving birth. I am not married and am not in a registered domestic partnership

(including a registered domestic partnership or civil union from another jurisdiction), and I INTEND to be a parent of the child to be conceived.

SIGNATURES

Intended parent giving birth: _____ (print name)
_____ (signature) _____(date)

Intended parent providing sperm: _____ (print name)
_____ (signature) _____(date)

NOTARY ACKNOWLEDGMENT

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

California Statutory Forms for Assisted Reproduction, Form 3:

Intended Parents Conceiving a Child Using Eggs from One Parent and the Other Parent Will Give Birth

Use this form if: You are conceiving a child using the eggs from one of you and the other person will give birth to the child; (2) and you both intend to be parents to that child.

Do not use this form if you are conceiving using a surrogate.

WARNING: Signing this form does not terminate the parentage claim of ~~a spermdonor.~~ *sperm donor.* A sperm donor's claim to parentage is terminated if the sperm is provided to a licensed physician or surgeon or to a licensed sperm bank prior to insemination as required by Section 7613(b) of the Family Code.

The laws about parentage of a child are complicated. **You are strongly encouraged to consult with an attorney about your rights.**

_____

This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using eggs from one parent and the other parent will give birth to the child.

I, _____ (print name of parent giving birth), plan to use assisted reproduction to conceive and give birth to a child with another person who will provide eggs to conceive the child. I INTEND for the person providing eggs to be a parent of the child to be conceived.

I, _____ (print name of parent providing eggs), plan to use assisted reproduction to conceive a child with another person who will give birth to the child conceived using my eggs. I INTEND to be a parent of the child to be conceived.

SIGNATURES

Intended parent giving birth: _____ (print name)
_____ (signature) _____(date)

Intended parent providing eggs: _____ (print name)
_____ (signature) _____(date)

_____

NOTARY ACKNOWLEDGMENT

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

SEC. 152. Section 8712 of the Family Code is amended to read:

8712. (a) The department, county adoption agency, or licensed adoption agency shall require each person who files an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department, county adoption agency, or licensed adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to Section 1203.49 of the Penal Code. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an

out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or 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. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department, county adoption agency, or licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) ~~Under no circumstances shall the~~ *The* department, county adoption agency, or licensed adoption agency *shall not* give final approval for an adoptive placement in any home ~~where~~ *in which* the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for 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), of 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- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 ~~and following).~~ *et seq.).*

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department, county

adoption agency, or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 153. Section 8811 of the Family Code is amended to read:

8811. (a) The department or delegated county adoption agency shall require each person who files an adoption petition to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to Section 1203.49 of the Penal Code. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or 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. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department or delegated county adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) ~~Under no circumstances shall the~~ *The* department or a delegated county adoption agency *shall not* give final approval for

an adoptive placement in any home ~~where~~ *in which* the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for 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), of 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- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 ~~and following).~~ *et seq.).*

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 154. Section 8908 of the Family Code is amended to read:

8908. (a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to Section 1203.49 of the Penal Code. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for

the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or 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. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a fitness determination to the licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) ~~Under no circumstances shall a~~ *A* licensed adoption agency *shall not* give final approval for an adoptive placement in any home ~~where~~ *in which* the prospective adoptive parent, or any adult living in the prospective adoptive home, has a felony conviction for either of the following:

(A) Any felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for 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), of 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- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 ~~and following).~~ *et seq.).*

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of

the applicant shall be paid by the applicant. The licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child.

SEC. 155. Section 12201 of the Financial Code is amended to read:

12201. (a) An application for a license shall be in writing, under oath, and in a form prescribed by the commissioner and shall contain the name, and the address both of the residence and place of business, of the applicant and if the applicant is a partnership or association, of every member thereof, and if a corporation, of every officer and director thereof.

(b) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section ~~shall~~ *does* not require the commissioner to accept electronic records or electronic signatures.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. "Electronic record" also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B) A financial statement, ~~reports,~~ *report,* or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(d) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 156. Section 17201 of the Financial Code is amended to read:

17201. (a) An application for a license as an escrow agent shall be in writing and in such form as is prescribed by the commissioner. The application shall be verified by the oath of the applicant.

(b) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section ~~shall~~ *does* not require the commissioner to accept electronic records or electronic signatures.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. "Electronic records" also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any order, license, consent, or other authority.

(B) A financial statement, ~~reports,~~ *report,* or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, registration, order, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(d) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 157. Section 22066 of the Financial Code is amended to read:

22066. (a) The Legislature finds and declares that nonprofit organizations have an important role to play in helping individuals obtain access to affordable, credit-building small dollar loans. California law should refrain from creating statutory barriers that risk slowing the growth of these loans. This section shall be liberally construed to encourage nonprofit organizations to help facilitate the making of zero-interest, low-cost loans, through lending circles and other programs and services that allow individuals to establish and build credit histories or to improve their credit scores.

(b) For the purposes of this section, an organization described in subdivision (c) shall be known as an exempt organization, and an organization described in subdivision (d) shall be known as a partnering organization.

(c) There shall be exempted from this division a nonprofit organization that facilitates one or more zero-interest, low-cost loans, provided all of the following conditions are met:

(1) The organization is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and is organized and operated exclusively for one or more of the purposes described in Section 501(c)(3) of the Internal Revenue Code.

(2) No part of the net earnings of the organization inures to the benefit of a private shareholder or individual.

(3) ~~No~~ *A* broker's fee is *not* paid in connection with the making of the loan that is facilitated by the organization.

(4) ~~Any~~ *An* organization wishing to operate pursuant to an exemption granted under this section shall file an application for exemption with the commissioner, in a manner prescribed by the commissioner, and shall pay a fee to the commissioner, in an amount calculated by the commissioner to cover his or her costs to administer this section and Section 22067. The commissioner may refuse to grant an exemption, or to suspend or revoke a previously issued exemption if he or she finds that one or more of the provisions of this section were not met or are not being met by the organization and that denial, suspension, or revocation of the exemption is in the best interests of the public.

(5) Every organization whose exemption is approved by the commissioner shall file an annual report with the commissioner on or before March 15 of each year, containing relevant information that the commissioner reasonably requires concerning lending facilitated by the organization within the state during the preceding calendar year at all locations at which the organization facilitates lending. The commissioner shall compile the information submitted pursuant to this paragraph for use in preparing the report required by Section 22067.

(6) Any loan made pursuant to this section shall comply with the following requirements:

(A) The loan shall be unsecured.

(B) ~~No interest may~~ *Interest shall not* be imposed.

(C) An administrative fee may be charged in an amount not to exceed the following:

(i) Seven percent of the principal amount, exclusive of the administrative fee, or ninety dollars ($90), whichever is less, on the first loan made to a borrower.

(ii) Six percent of the principal amount, exclusive of the administrative fee, or seventy-five dollars ($75), whichever is less, on the second and subsequent loans made to that borrower.

(D) An organization shall not charge the same borrower an administrative fee more than once in any four-month period. Each administrative fee shall be fully earned immediately upon consummation of a loan agreement.

(E) Notwithstanding subdivision (a) of Section 22320.5 and in lieu of any other type of delinquency fee or late fee, an organization

may require reimbursement from a borrower of up to ten dollars ($10) to cover an insufficient funds fee incurred by that organization due to actions of the borrower. ~~No~~ *An* organization shall *not* charge more than two insufficient funds fees to the same borrower in a single month.

(F) The following information shall be disclosed to the consumer in writing, in a typeface no smaller than 12-point type, at the time of the loan application:

(i) The amount to be borrowed, the total dollar cost of the loan to the consumer if the loan is paid back on time, including the sum of the administrative fee and principal amount borrowed, the corresponding annual percentage rate, calculated in accordance with Federal Reserve Board Regulation Z (12 C.F.R. 226.1), the periodic payment amount, the payment frequency, and the insufficient funds fee, if applicable.

(ii) An explanation of whether, and under what circumstances, a borrower may exit a loan agreement.

(G) The loan shall have a minimum principal amount upon origination of two hundred fifty dollars ($250) and a maximum principal amount upon origination of two thousand five hundred dollars ($2,500), and a term of not less than the following:

(i) Ninety days for loans whose principal balance upon origination is less than five hundred dollars ($500).

(ii) 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).

(iii) One hundred eighty days for loans whose principal balance upon origination is at least one thousand five hundred dollars ($1,500).

(H) The loan shall not be refinanced.

(I) ~~Neither the~~ *The* organization ~~nor~~ *or* any of its wholly owned subsidiaries shall *not* sell or assign unpaid debt to an independent party for collection before at least 90 ~~has~~ *days have* passed since the start of the delinquency.

(7) Prior to disbursement of loan proceeds, the organization 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. A credit education program or seminar offered pursuant to this paragraph shall be provided at no cost to the borrower.

(8) The organization shall report each borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, upon acceptance as a data furnisher by that consumer reporting agency. For purposes of this section, a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis is one that meets the definition in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). ~~Any~~ *An* organization that is accepted as a data furnisher after being granted an exemption by the commissioner pursuant to this subdivision shall report all borrower payment performance since its inception of lending under the program, as soon as practicable after its acceptance into the program, but in no event more than six months after its acceptance into the program.

(9) The organization shall underwrite each loan and shall ensure that a loan is not made if, through its underwriting, the organization determines that the borrower's total monthly debt service payments, at the time of loan 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 organization, exceed 50 percent of the borrower's gross monthly household income except as specified in clause (iii) of subparagraph (D).

(A) The organization 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 organization shall verify that information using a credit report from at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis or through other available electronic debt verification services that provide reliable evidence of a borrower's outstanding debt obligations.

(B) The organization shall also 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.

(C) The organization shall not be required to consider, for purposes of debt-to-income ratio evaluation, loans from friends or family.

(D) The organization shall also verify the borrower's household income that the organization relies on to determine the borrower's debt-to-income ratio using information from any 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.

(iii) A signed statement from the borrower stating sources and amounts of income, if the borrower's actual income cannot be independently verified using electronic means or services, Internal Revenue Service forms, tax returns, payroll receipts, bank statements, or other third-party documents. If income is verified using a signed statement from a borrower, a loan shall not be made if the borrower's total monthly debt service payments, at the time of loan origination, including the loan for which the borrower is being considered, and across all outstanding forms of credit, exceed 25 percent of the borrower's gross monthly household income.

(10) The organization shall notify each borrower, at least two days prior to each payment due date, informing the borrower of the amount due and the payment due date. Notification may be provided by any means mutually acceptable to the borrower and the organization. A borrower shall have the right to opt out of this notification at any time, upon electronic or written request to the organization. The organization shall notify each borrower of this right prior to disbursing loan proceeds.

(11) Notwithstanding Sections 22311 to 22315, inclusive, no organization, in connection with, or incidental to, the facilitating of any loan made pursuant to this section, may offer, sell, or require a 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.

(12) ~~No~~ *An* organization shall *not* require, as a condition of making a loan, that a 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 waiver by a borrower must be knowing, voluntary, and in writing, and expressly not made a condition of doing business with the organization. Any waiver that is required as a condition of doing business with the organization shall be presumed involuntary, unconscionable, against public policy, and unenforceable. The organization 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.

(13) ~~No~~ *An* organization shall *not* 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.

(14) This section ~~shall~~ *does* 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~~ *This* section ~~shall~~ *does not* affect the enforceability or validity of any other provision of the contract.

(d) This division does not apply to a nonprofit organization that partners with an organization granted an exemption pursuant to subdivision (c) for the purpose of facilitating zero-interest, low-cost loans, provided that the requirements of paragraphs (6) to (14), inclusive, of subdivision (c), and the following additional conditions are met:

(1) The partnership of each exempt organization and each partnering organization shall be formalized through a written agreement that specifies the obligations of each party. Each written agreement shall contain a provision establishing that the partnering organization agrees to comply with the provisions of this section and any regulations that may be adopted by the commissioner

pursuant to this section. Each ~~such~~ *written* agreement shall be provided to the commissioner upon request.

(2) Each partnering organization shall meet the requirements for federal income tax exemption under Section 501(c)(3) of the Internal Revenue Code and shall be organized and operated exclusively for one or more of the purposes described in Section 501(c)(3) of the Internal Revenue Code.

(3) No part of the net earnings of the partnering organization shall inure to the benefit of a private shareholder or individual.

(4) Each exempt organization shall notify the commissioner within 30 days of entering into a written agreement with a partnering organization, on such form and in such manner as the commissioner may prescribe. At a minimum, this notification shall include the name of the partnering organization, the contact information for a person responsible for the lending activities facilitated by that partnering organization, and the address or addresses at which the organization facilitates lending activities.

(5) Upon a determination that a partnering organization has acted in violation of this section or any regulation adopted thereunder, the commissioner may disqualify that partnering organization from performing services under this section, bar that organization from performing services at one or more specific locations of that organization, terminate a written agreement between a partnering organization and an exempt organization, and, if the commissioner deems such action to be in the public interest, prohibit the use of that partnering organization by all organizations granted exemptions by the commissioner pursuant to subdivision (c).

(6) The exempt organization shall include information regarding the loans facilitated by the partnering organization in the annual report required pursuant to paragraph (5) of subdivision (c).

(e) The commissioner may examine each exempt organization and each partnering organization for compliance with the provisions of this section, upon reasonable notice to the party responsible for the lending activities facilitated by that organization. ~~Any~~ *An* organization so examined shall make available to the commissioner or his or her representative all books and records requested by the commissioner related to the lending activities facilitated by that organization. The cost of ~~any such~~ *the* examination shall be paid by the exempt organization.

(f) This section ~~shall~~ *does* 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. 158. Section 22101 of the Financial Code is amended to read:

22101. (a) An application for a license as a finance lender or broker under this division shall be in the form and contain the information that the commissioner may by rule or order require and shall be filed upon payment of the fee specified in Section 22103.

(b) Notwithstanding any other law, an applicant who does not currently hold a license as a finance lender or broker under this division shall furnish, with his or her application, a full set of fingerprints and related information for purposes of the commissioner conducting a criminal history record check. The commissioner shall obtain and receive criminal history information from the Department of Justice and the Federal Bureau of Investigation pursuant to Section 22101.5.

(c) This section shall not be construed to prevent a licensee from engaging in the business of a finance lender through a subsidiary corporation if the subsidiary corporation is licensed pursuant to this division.

(d) For purposes of this section, "subsidiary corporation" means a corporation that is wholly owned by a licensee.

(e) A new application shall not be required for a change in the address of an existing location previously licensed under this division. However, the licensee shall comply with the requirements of Section 22153.

(f) Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require an application to be made through the Nationwide Mortgage Licensing System and Registry, and may require fees, fingerprints, financial statements, supporting documents, changes of address, and any other information, and amendments or modifications thereto, to be submitted in the same manner.

(g) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section ~~shall~~ *does*

not require the commissioner to accept electronic records or electronic signatures.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. "Electronic records" also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B) A financial statement, ~~reports,~~ *report*, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(i) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 159. Section 23005 of the Financial Code is amended to read:

23005. (a) A person shall not offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred

deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction without first obtaining a license from the commissioner and complying with the provisions of this division. The requirements of this subdivision shall not apply to persons or entities that are excluded from the definition of "licensee" as set forth in Section 23001. This division shall not be construed to require the commissioner to create separate classes of licenses.

(b) An application for a license under this division shall be in the form and contain the information that the commissioner may by rule require and shall be filed upon payment of the fee specified in Section 23006.

(c) A licensee with one or more licensed locations seeking an additional location license may file a short form license application as may be established by the commissioner pursuant to subdivision (b) of this section.

(d) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section ~~shall~~ *does* not require the commissioner to accept electronic records or electronic signatures.

(e) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. "Electronic records" also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B) A financial statement, ~~reports,~~ *report,* or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(f) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 160. Section 23015 of the Financial Code, as added by Section 25 of Chapter 101 of the Statutes of 2007, is amended and renumbered to read:

~~23015.~~

23015.5. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 161. Section 24058 of the Financial Code is repealed.

~~24058. This division does not apply to any loans made or arranged by a licensed residential mortgage lender or servicer when acting under the authority of that license.~~

SEC. 162. Section 32208 of the Financial Code is amended to read:

32208. "Energy Commission" means the ~~California~~ *State* Energy Resources Conservation and Development Commission.

SEC. 163. The heading of Article 1 (commencing with Section 32700) of Chapter 6 of Division 15.5 of the Financial Code is repealed.

~~Article 1. Office of Management Services~~

SEC. 164. The heading of Article 2 (commencing with Section 32710) of Chapter 6 of Division 15.5 of the Financial Code is repealed.

~~Article 2. Alternative Energy Research~~

SEC. 165. The heading of Chapter 8 (commencing with Section 50601) of Division 20 of the Financial Code is repealed.

~~Chapter 8. Operation of Division~~

SEC. 166. Section 1652 of the Fish and Game Code is amended to read:

1652. (a) A project proponent may submit a written request to approve a habitat restoration or enhancement project to the director pursuant to this section if the project has not received certification pursuant to the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request. If the project has received certification pursuant to that order, or its current equivalent, the project proponent may submit a request for approval of the project pursuant to Section 1653.

(b) A written request to approve a habitat restoration or enhancement project pursuant to this section shall contain all of the following:

(1) The name, address, title, organization, telephone number, and email address of the natural person or persons who will be the main point of contact for the project proponent.

(2) A full description of the habitat restoration ~~and~~ *or* enhancement project that includes the designs and techniques to be used for the project, restoration or enhancement methods, an estimate of temporary restoration- or enhancement-related disturbance, project schedule, anticipated activities, and how the project is expected to result in a net benefit to any affected habitat and species, consistent with paragraph (4) of subdivision (c).

(3) An assessment of the project area that provides a description of the existing flora and fauna and the potential presence of sensitive species or habitat. The assessment shall include preproject photographs of the project area that include a descriptive title, date

taken, the photographic monitoring point, and photographic orientation.

(4) A geographic description of the project site including maps, land ownership information, and other relevant location information.

(5) A description of the environmental protection measures incorporated into the project design, so that no potentially significant adverse effects on the environment, as defined in Section 15382 of Title 14 of the California Code of Regulations, are likely to occur with application of the specified environmental protection measures. Environmental protection measures may include, but are not limited to, appropriate seasonal work limitations, measures to avoid and minimize impacts to water quality and potentially present species protected by state and federal law, and the use of qualified professionals for standard preconstruction surveys where protected species are potentially present.

(6) Substantial evidence to support a conclusion that the project meets the requirements set forth in this section. Substantial evidence shall include references to relevant design criteria and environmental protection measures found in the documents specified in paragraph (4) of subdivision (c).

(7) A certifying statement that the project will comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), which may include, but not be limited to, the requirements of Section 15333 of Title 14 of the California Code of Regulations.

(c) Notwithstanding any other law, within 60 days after receiving a written request to approve a habitat restoration or enhancement project, the director shall approve a habitat restoration or enhancement project if the director determines that the written request includes all of the required information set forth in subdivision (b), and the project meets all of the following requirements:

(1) The project purpose is voluntary habitat restoration and the project is not required as mitigation.

(2) The project is not part of a regulatory permit for a nonhabitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order.

(3) The project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request, but has not received certification pursuant to that order or its equivalent.

(4) The project is consistent with, or identified in, sources that describe best available restoration and enhancement methodologies, including one or more of the following:

(A) Federal- and state-listed species recovery plans or published protection measures, or previously approved department agreements and permits issued for voluntary habitat restoration or enhancement projects.

(B) Department and National Marine Fisheries Service fish screening criteria or fish passage guidelines.

(C) The department's California Salmonid Stream Habitat Restoration Manual.

(D) Guidance documents and practice manuals that describe best available habitat restoration or enhancement methodologies that are utilized or approved by the department.

(5) The project will not result in cumulative adverse environmental impacts that are significant when viewed in connection with the effects of past, current, or probable future projects.

(d) If the director determines that the written request does not contain all of the information required by subdivision (b), or fails to meet the requirements set forth in subdivision (c), or both, the director shall deny the written request and inform the project proponent of the reason or reasons for the denial.

(e) The project proponent shall submit a notice of completion to the department no later than 30 days after the project approved pursuant to this section is completed. The notice of completion shall demonstrate that the project has been carried out in accordance with the project's description. The notice of completion shall include a map of the project location, including the final boundaries of the restoration area or areas and postproject photographs. Each photograph shall include a descriptive title, date taken, photographic monitoring point, and photographic orientation.

(f) The project proponent shall submit a monitoring report describing whether the restoration project is meeting each of the restoration goals stated in the project application. Each report shall include photographs with a descriptive title, date taken, photographic monitoring point, and photographic orientation. The monitoring reports for Section 401 Water Quality Certification or waste discharge requirements of the State Water Resources Control Board or a regional water quality control board, or for department or federal voluntary habitat restoration programs, including, but not limited to, the Fisheries Restoration Grant Program, may be submitted in lieu of this requirement.

SEC. 167. Section 1653 of the Fish and Game Code is amended to read:

1653. (a) A project proponent may submit a written request to approve a habitat restoration or enhancement project to the director pursuant to this section if the project has received certification pursuant to the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request.

(b) A written request to approve a habitat restoration or enhancement project pursuant to this section shall include all of the following:

(1) Notice that the project proponent has received a notice of applicability that indicates that the project is authorized pursuant to the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its equivalent at the time the project proponent submits the written request.

(2) A copy of the notice of applicability.

(3) A copy of the notice of intent provided to the State Water Resources Control Board or a regional water quality control board.

(4) A description of species protection measures incorporated into the project design, but not already included in the notice of intent, to avoid and minimize impacts to potentially present species protected by state and federal law, such as appropriate seasonal work limitations and the use of qualified professionals for standard preconstruction surveys where protected species are potentially present.

(5) The fees required pursuant to Section 1655.

(c) Upon receipt of the notice specified in paragraph (1) of subdivision (b), the director shall immediately have published in the General Public Interest section of the California Regulatory Notice Register the receipt of that notice.

(d) Within 30 days after the director has received the notice of applicability described in subdivision (b), the director shall determine whether the written request accompanying the notice of applicability is complete.

(e) If the director determines within that 30-day period, based upon substantial evidence, that the written request is not complete, then the project may be authorized under Section 1652.

(f) The director shall immediately publish the determination pursuant to subdivision (d) in the General Public Interest section of the California Regulatory Notice Register.

(g) The project proponent shall submit the monitoring plan, monitoring report, and notice of completion to the department as required by the State Water Resources Control Board's Order *for* Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request. The order or its current equivalent may include programmatic waivers or waste discharge requirements for small scale restoration projects.

SEC. 168. Section 1654 of the Fish and Game Code is amended to read:

1654. (a) The director's approval of a habitat restoration or enhancement project pursuant to Section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with Section 1600) and Chapter 10 (commencing with Section 1900) of this ~~Division~~ *division* and Chapter 1.5 (commencing with Section 2050) of Division 3.

(b) ~~Nothing in this~~ *This* chapter shall *not* be construed as expanding the scope of projects requiring a permit, agreement, license, or other approval issued by the department.

(c) (1) If the director determines at any time that the project is no longer consistent with subdivision (c) of Section 1652 or subdivision (b) of Section 1653, as applicable, due to a material change between the project as submitted and the project being

implemented or a change in the environmental circumstances in the area of implementation, the director shall notify the project proponent in writing and project implementation shall be suspended. Written notice from the director shall be delivered in person, by certified mail, or by electronic communication to the project proponent and shall specify the reasons why approval of the project was suspended. The approval for a project shall not be revoked pursuant to this subdivision unless it has first been suspended pursuant to this subdivision.

(2) Within 30 days of receipt of a notice of suspension, the project proponent may file an objection with the director. Any objection shall be in writing and state the reasons why the project proponent objects to the suspension. The project proponent may provide additional environmental protection measures, design modifications, or other evidence that the project is consistent with subdivision (c) of Section 1652 or subdivision (b) of Section 1653, as applicable, and request that the notice of suspension be lifted and approval granted.

(3) The director shall revoke approval or lift the suspension of project approval within 30 days after receiving the project proponent's objection pursuant to paragraph (2).

(d) Pursuant to Section 818.4 of the Government Code, the department and any other state agency exercising authority under this section shall not be liable with regard to any determination or authorization made pursuant to this section.

SEC. 169. Section 1745.2 of the Fish and Game Code is amended to read:

1745.2. (a) The department shall do both of the following:

(1) Consider permitting apiculture on department-managed wildlife areas, where deemed appropriate by the department.

(2) Determine, when developing or amending its land management plans, the following:

(A) If the department-managed wildlife areas, or any ~~portion~~ *portions* of ~~the~~ those areas, are suitable for apiculture and whether apiculture is consistent with the management goals and objectives for those areas on a temporary, seasonal, or long-term basis.

(B) If the administration of apiculture on department-managed wildlife areas, where deemed appropriate by the department, is meeting the management goals and objectives for those areas.

(C) The appropriate use or permit fee to be assessed for conducting apiculture on department-managed wildlife areas.

(b) The department, in implementing this section, may consult with apiculture experts, including, but not limited to, the Department of Food and Agriculture, the University of California, other academic or professional experts, and interested stakeholders, for permitting apiculture on department-managed wildlife areas consistent with the respective management goals and objectives for those areas.

(c) Moneys collected for conducting apiculture on department-managed wildlife areas pursuant to subparagraph (C) of paragraph (2) of subdivision (a) shall be deposited by the department into the Wildlife Restoration Fund and, upon appropriation by the Legislature, be used to support the management, maintenance, restoration, and operation of department-managed wildlife areas.

SEC. 170. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in ~~the~~ *a* county jail for not more than six months, or by both that fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000), imprisonment in ~~the~~ *a* county jail for not more than one year, or both the fine and imprisonment:

(1) Section 1059.

(2) Subdivision (c) of Section 4004.

(3) Section 4600.

(4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

(5) A first violation of Section 8670.

(6) Section 10500.

(7) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars ($5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

SEC. 171. The heading of Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, as added by Section 1 of Chapter 589 of the Statutes of 2000, is amended and renumbered to read:

Article ~~5.~~*4.5.* Food Biotechnology Task Force

SEC. 172. Section 6045 of the Food and Agricultural Code is amended to read:

6045. (a) The Legislature finds and declares that the plant killing bacterium, Xyella ~~Fastidiosa~~ *Fastidiosa,* and the resulting pathogen, Pierce's disease, and its vectors present a clear and present danger to California's ~~60-billion-dollar~~ *sixty-billion-dollar* grape industry, as well as to many other commodities and plant life.

(b) There exists an ongoing need for at least fifteen million dollars ($15,000,000) annually in research and programs to combat Pierce's disease and its vectors in California.

SEC. 173. Section 6047.9 of the Food and Agricultural Code is amended to read:

6047.9. (a) For purposes of calculating the amount to be collected by the processor for purchased grapes, the assessment shall be based on the gross dollar value of the grapes, which is the gross dollar amount payable for the grapes before any deductions for governmental assessments and fees.

(b) For purposes of calculating the assessment for grapes not purchased, the assessment shall be based on the following:

(1) The tonnage of grapes delivered less material other than grapes and defects or other weight adjustments deducted from gross weight.

(2) The weighted average price per ton delivered basis purchased from all nonrelated sources for wine, concentrate, juice, wine vinegar, and beverage brandy by processors, by type, ~~variety~~ *variety,* and reporting district where grown for the grapes delivered, sources as reported by the secretary pursuant to Section 55601.5 for the immediately preceding marketing season.

SEC. 174. Section 12996 of the Food and Agricultural Code is amended to read:

12996. (a) Every person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment of not more than six months, or by both the fine and imprisonment. Upon a second or subsequent conviction of the same provision of this division relating to pesticides, a person shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment of not more than six ~~months~~ *months,* or by both the fine and imprisonment. Each violation constitutes a separate offense.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the offense involves an intentional or negligent violation that created or reasonably could have created a hazard to human health or the environment, the convicted person shall be punished by imprisonment in a county jail not exceeding one year or in the state prison or by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000), or by both the fine and imprisonment.

(c) This section does not apply to violations of Chapter 7.5 (commencing with Section 15300) or Section 13186.5.

SEC. 175. Section 12999.5 of the Food and Agricultural Code is amended to read:

12999.5. (a) In lieu of civil prosecution by the director, the county agricultural commissioner may levy a civil penalty against a person violating Division 6 (commencing with Section 11401), Article 10 (commencing with Section 12971) or Article 10.5

(commencing with Section 12980) of this chapter, Section 12995, Article 1 (commencing with Section 14001) of Chapter 3, Chapter 3.7 (commencing with Section 14160), Chapter 7.5 (commencing with Section 15300), or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars ($1,000) for each violation. Any violation determined by the county agricultural commissioner to be a Class A violation as defined in Section 6130 of Title 3 of the California Code of Regulations is subject to a fine of not more than five thousand dollars ($5,000) for each violation. It is unlawful and grounds for denial of a permit under Section 14008 for a person to refuse or neglect to pay a civil penalty levied pursuant to this section once the order is final.

(b) If a person has received a civil penalty for pesticide drift in a school area subject to Section 11503.5 that results in a Class A violation as defined in subdivision (a), the county agricultural commissioner shall charge a fee, not to exceed fifty dollars ($50), for processing and monitoring each subsequent pesticide application that may pose a risk of pesticide drift made in a school area subject to Section 11503.5. The county agricultural commissioner shall continue to impose the fee for each subsequent application that may pose a risk of drift, until the person has completed 24 months without another Class A violation as defined in subdivision (a).

(c) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed ~~action~~ *action,* including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the county agricultural commissioner's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the county agricultural commissioner may take the action proposed without a hearing.

(d) If the person upon whom the county agricultural commissioner levied a civil penalty requested and appeared at a

hearing, the person may appeal the county agricultural commissioner's decision to the director within 30 days of the date of receiving a copy of the county agricultural commissioner's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, state the grounds for the appeal, and include a copy of the county agricultural commissioner's decision. The appellant shall file a copy of the appeal with the county agricultural commissioner at the same time it is filed with the director.

(2) The appellant and the county agricultural commissioner may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the director, present the record of the ~~hearing~~ *hearing,* including written evidence that was submitted at the ~~hearing~~ *hearing,* and a written argument to the director stating grounds for affirming, modifying, or reversing the county agricultural commissioner's decision.

(3) The director may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set for the oral argument. The times may be altered by mutual agreement of the appellant, the county agricultural commissioner, and the director.

(5) The director shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or she has received. If the director finds substantial evidence in the record to support the county agricultural commissioner's decision, the director shall affirm the decision.

(6) The director shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the director may affirm the county agricultural commissioner's decision, modify the county agricultural commissioner's decision by reducing or increasing the amount of the penalty levied so that it is within the director's guidelines for imposing civil penalties, or reverse the county agricultural commissioner's decision. ~~Any~~ *A* civil penalty increased by the director shall not be higher than that proposed in the county

agricultural commissioner's notice of proposed action given pursuant to subdivision (c). A copy of the director's decision shall be delivered or mailed to the appellant and the county agricultural commissioner.

(8) Any person who does not request a hearing pursuant to subdivision (c) may not file an appeal pursuant to this subdivision.

(9) Review of a decision of the director may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) The county agricultural commissioner may levy a civil penalty pursuant to subdivisions (a), (c), and (d) against a person violating paragraph (1), (2), or (8) of subdivision (a) of Section 1695 of the Labor Code, which pertains to registration with the county agricultural commissioner, carrying proof of that registration, and filing changes of address with the county agricultural commissioner.

(f) After the exhaustion of the appeal and review procedures provided in this section, the county agricultural commissioner or his or her representative may file a certified copy of a final decision of the county agricultural commissioner that directs the payment of a civil penalty and, if applicable, a copy of any decision of the director or his or her authorized representative rendered on an appeal from the county agricultural commissioner's decision and a copy of any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. ~~No fees~~ *Fees* shall *not* be charged by the clerk of the superior court for the performance of ~~any~~ official service required in connection with the entry of judgment pursuant to this section.

SEC. 176. Section 13186.5 of the Food and Agricultural Code is amended to read:

13186.5. (a) Commencing July 1, 2016, and except as provided in subdivision (b), a school designee, as defined in Section 17609 of the Education Code, and any person, including, but not necessarily limited to, a schoolsite or *school* district employee, who, in the course of his or her work, intends to apply a pesticide at a schoolsite subject to this article, shall annually complete a training course provided by the department or an agent authorized by the department. The training course shall include integrated

pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health.

(b) (1) Commencing July 1, 2016, any person hired to apply a pesticide at a schoolsite subject to this article shall complete at least a one-hour training course in integrated pest management and the safe use of pesticides in relation to the unique nature of schoolsites and children's health before applying pesticides at a schoolsite subject to this article and during each subsequent licensing period in which the person applies a pesticide at a schoolsite subject to this article. The training course may be applied to his or her professional continuing education requirement required by the Structural Pest Control Board or the department.

(2) The training course required by paragraph (1) shall be developed by the department and may also be developed by a provider approved by the Structural Pest Control Board if the training course has been approved by the department.

(3) The department shall ensure that the training course it develops or approves pursuant to paragraph (2) meets the requirements for continuing education credit required by the Structural Pest Control Board and the department.

SEC. 177. Section 19227 of the Food and Agricultural Code is amended to read:

19227. (a) In addition to the license fee required pursuant to Section 19225, the department may charge each licensed renderer and collection center an additional fee necessary to cover the reasonable costs of administering Article 6 (commencing with Section 19300) and Article 6.5 (commencing with Section 19310). The additional fees authorized to be imposed by this section ~~may~~ *shall* not exceed three thousand dollars ($3,000) per year per each licensed rendering plant or collection center.

(b) The secretary shall fix the annual fee established pursuant to this section and may fix different fees for renderers and collection centers. The secretary shall also fix the date the fee is due and the method of collecting the fee. If an additional fee is imposed on licensed renderers pursuant to subdivision (a) and an additional fee is imposed on registered transporters pursuant to subdivision (a) of Section 19315, only one additional fee may be imposed on a person or firm that is both licensed as a renderer pursuant to Article 6 (commencing with Section 19300) and registered as a transporter of inedible kitchen grease pursuant to

Article 6.5 (commencing with Section 19310), which fee shall be the higher of the two fees.

(c) If the fee established pursuant to this section is not paid within one calendar month of the date it is due, a penalty shall be imposed in the amount of 10 percent per annum on the amount of the unpaid fee.

(d) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 178. Section 55462 of the Food and Agricultural Code, as added by Section 5 of Chapter 651 of the Statutes of 1997, is repealed.

~~55462. For the purposes of trading in cattle, this chapter does not apply to or include any person who is bonded under the federal Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 181, et seq.) who is engaged in the business of buying or selling cattle.~~

SEC. 179. Section 77103 of the Food and Agricultural Code is repealed.

~~77103. (a) Notwithstanding any other provision of this chapter, the following duties are imposed upon the executive committee of the commission, established in the commission's bylaws, for the 2006 marketing year:~~

~~(1) Continue any and all existing contracts and agreements necessary for the operation of the commission.~~

~~(2) Establish the annual budget according to accepted accounting practices.~~

~~(3) Establish the assessment rate not later than the first day of the marketing year or as soon thereafter as possible. The assessment rate shall not exceed the 2005 marketing year assessment rate.~~

~~(b) In fulfilling the duties of this section, except for the disbursements made pursuant to Section 77086, the executive committee shall obtain concurrence by the secretary.~~

~~(c) This section shall become inoperative on July 1, 2007.~~

SEC. 180. Section 78579 of the Food and Agricultural Code is amended to read:

78579. (a) Unless funds are otherwise provided by the Secretary ~~of~~ *for* Environmental ~~Affairs pursuant to subdivision (b) of Section 35062 of the Public Resources Code,~~ *Protection,* before the referendum vote is conducted by the ~~director,~~ *secretary,* the

proponents of the council shall deposit with the ~~director~~ *secretary* the amount that the ~~director~~ *secretary* determines is necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum vote.

(b) Any funds not used in carrying out this article shall be returned to the proponents of the council who deposited the funds with the ~~director.~~ *secretary.*

(c) Upon the establishment of the council, the council may reimburse the proponents of the council for any funds deposited by the proponents with the ~~director which~~ *secretary that* were used in carrying out this article, and for any legal expenses and costs incurred in establishing the council.

SEC. 181. The heading of Chapter 3 (commencing with Section 980) of Part 5 of Division 3.6 of Title 1 of the Government Code is repealed.

~~CHAPTER 3. CONSTRUCTION CLAIMS AND CONTRACT PAYMENTS~~

SEC. 182. Section 4420.5 of the Government Code, as added by Section 18 of Chapter 407 of the Statutes of 1998, is repealed.

~~4420.5. (a) Subdivision (b) of Section 4420 shall not apply to any construction or renovation project undertaken by a school district.~~

~~(b) The district may use owner-controlled or wrap-up insurance with regard to a construction or renovation project if the district makes the following determinations:~~

~~(1) Prospective bidders, including contractors and subcontractors, meet minimum occupational safety and health qualifications established to bid on the project. The evaluation of prospective bidders shall be based on consideration of the following factors:~~

~~(A) Serious and willful violations of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, by a contractor or subcontractor during the past five-year period.~~

~~(B) The contractor's or subcontractor's workers' compensation experience modification factor.~~

~~(C) A contractor's or subcontractor's injury prevention program instituted pursuant to Section 3201.5 or 6401.7 of the Labor Code.~~

~~(2) The use of owner-controlled or wrap-up insurance will maximize the expenditure of public funds on the project in conjunction with the exercise of appropriate risk management.~~

~~(c) For purposes of this section, "owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover all of the contractors and subcontractors on a given project for purposes of general liability and workers' compensation.~~

~~(d) Any use of owner-controlled or wrap-up insurance pursuant to this section shall be subject to subparagraphs (B), (C), (D), and (E) of paragraph (1) of subdivision (d) of Section 4420 and paragraphs (2) and (3) of that subdivision.~~

SEC. 183. The heading of Chapter 14 (commencing with Section 5970) of Division 6 of Title 1 of the Government Code, as added by Section 1 of Chapter 309 of the Statutes of 1996, is amended and renumbered to read:

CHAPTER ~~14.~~*15*. AWARDING OF CONTRACTS

SEC. 184. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) ~~Contained~~ *Records contained* in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, ~~nothing in~~ this division ~~shall~~ *does not* require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the

victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, ~~where~~ *if* the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph ~~may~~ *shall* not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. ~~Nothing in this~~ *This* paragraph shall *not* be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the

disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, ~~where~~ *if* an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training

to employees who do not have full collective bargaining and representation rights under these chapters. ~~Nothing in this~~ *This* subdivision shall *not* be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects

described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, 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 this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing

with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the

contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities

with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions,

recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the ~~California Emergency Management Agency~~ *Office of Emergency Services* for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates,

contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division

of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

This section ~~shall~~ *does* not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section ~~shall~~ *does* not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 185. Section 6276.22 of the Government Code is amended to read:

6276.22. Gambling Control Act, exemption from disclosure for records of the California Gambling Control Commission and the Department of Justice, Sections 19819 and 19821, Business and Professions Code.

Genetically Handicapped~~ Person's~~ *Persons* Program, confidentiality of factor replacement therapy contracts, Section 125191, Health and Safety Code.

Governor, correspondence of and to Governor and Governor's office, subdivision (*l*), Section 6254.

Governor, transfer of public records in control of, restrictions on public access, Section 6268.

Grand jury, confidentiality of request for special counsel, Section 936.7, Penal Code.

Grand jury, confidentiality of transcription of indictment or accusation, Section 938.1, Penal Code.

Group Insurance, public employees, Section 53202.25.

~~Guardian, confidentiality of report used to check ability, Section 2342, Probate Code.~~

Guardianship, confidentiality of report regarding the suitability of the proposed guardian, Section 1543, Probate Code.

Guardianship, disclosure of report and recommendation concerning proposed guardianship of person or estate, Section 1513, Probate Code.

SEC. 186. Section 6700 of the Government Code is amended to read:

6700. (a) The holidays in this state are:

(1) Every Sunday.

(2) January 1st.

(3) The third Monday in January, known as "Dr. Martin Luther King, Jr. Day."

(4) February 12th, known as "Lincoln Day."

(5) The third Monday in February.

(6) March 31st, known as "Cesar Chavez Day."

(7) The last Monday in May.

(8) July 4th.

(9) The first Monday in September.

(10) September 9th, known as "Admission Day."

(11) The fourth Friday in September, known as "Native American Day."

(12) The second Monday in October, known as "Columbus Day."

(13) November 11th, known as "Veterans Day."

(14) December 25th.

(15) Good Friday from 12 noon until 3 p.m.

(16) (A) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

(B) Except for the Thursday in November appointed as Thanksgiving Day, this paragraph and paragraphs (3) and (6) shall not apply to a city, county, or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 187. The heading of Article 8.5 (commencing with Section 8601) of Chapter 7 of Division 1 of Title 2 of the Government Code is repealed.

~~Article 8.5. Urban Search and Rescue Emergency Response Advisory Committee~~

SEC. 188. Section 8753.6 of the Government Code is amended to read:

8753.6. (a) The California Arts Council Contribution and Donations Fund is hereby created in the State Treasury to receive funds pursuant to subdivision (m) of Section 8753. Notwithstanding ~~Government Code~~ Section 13340, the moneys in the fund are continuously appropriated, without regard to fiscal years, to the Arts Council for the purposes of this chapter.

(b) Any moneys in the Art Council Donations Account in the Special Deposit Fund shall be transferred to the California Arts Council Contribution and Donations Fund.

SEC. 189. Section 11146.2 of the Government Code is amended to read:

11146.2. Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to Section 11146.1 for a period of not less than five years after each course is given. These records shall be public records subject to inspection

and copying consistent with ~~subdivision (a) of~~ Section 81008 and otherwise subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

SEC. 190. The heading of Article 8 (commencing with Section 11350) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, as added by Chapter 567 of the Statutes of 1979, is repealed.

~~Article 8. Exemptions~~

SEC. 191. The heading of Article 1 (commencing with Section 11370) of Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code, as added by Chapter 1425 of the Statutes of 1947, is repealed.

~~Article 1. General~~

SEC. 192. The heading of Article 6 (commencing with Section 12099) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, as added by Section 1 of Chapter 530 of the Statutes of 2013, is amended and renumbered to read:

Article ~~6.~~*6.2.* California Innovation Initiatives

SEC. 193. Section 12804 of the Government Code, as amended by Section 27 of Chapter 46 of the Statutes of 2012, is repealed.

~~12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.~~

~~The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the California Science Center; the California Victim Compensation and Government Claims Board; the California African American Museum; the California Building and Standards Commission; the Alfred E. Alquist Seismic Safety Commission; and the Office of Privacy Protection.~~

SEC. 194. Section 13312 of the Government Code is repealed.

~~13312. (a) (1) Commencing with the 2008–09 fiscal year, and notwithstanding any other provision of law, if after the annual Budget Act is enacted, the Director of Finance determines that General Fund total available resources for the fiscal year will decline substantially below the estimate of General Fund total resources available upon which the Budget Act was based, or that General Fund expenditures will increase substantially above that estimate of General Fund total resources available, the director may make reductions pursuant to subdivision (b).~~

~~(2) For purposes of this subdivision, "total resources available" includes prior year balance and revenues and transfers for the fiscal year.~~

~~(b) Upon making a determination as described in subdivision (a), the Director of Finance, in consultation with agency secretaries and other cabinet members, may reduce General Fund items of appropriation, subject to both of the following:~~

~~(1) The Director of Finance shall not reduce, pursuant to this section, the amounts appropriated for any of the following:~~

~~(A) The Legislature.~~

~~(B) Constitutional officers.~~

~~(C) Transfers pursuant to the Article XIX B of the California Constitution.~~

~~(D) Debt service, including, but not limited to, tobacco settlement revenue shortfalls, payment of interest on General Fund loans, and interest payments to the federal government.~~

~~(E) Health and dental benefits for annuitants.~~

~~(F) Equity claims before the California Victim Compensation and Government Claims Board.~~

~~(G) Augmentations for contingencies or emergencies.~~

~~(H) Local assistance appropriations.~~

~~(I) Any collective bargaining agreement with a recognized state employee organization.~~

~~(2) A General Fund state operations or capital outlay item of appropriation, and a program or category designated in any line of any schedule set forth by that appropriation, may not be reduced by more than 7 percent.~~

~~(c) Notwithstanding any provision of law to the contrary, any cost-of-living adjustment or rate increase funded in an annual Budget Act shall be subject to the following conditions:~~

~~(1) If the Director of Finance determines that suspension by up to 120 days of the effective date of a cost-of-living adjustment or rate increase funded in an annual Budget Act is necessary to mitigate conditions that would authorize the issuance of a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, that cost-of-living adjustment or rate increase shall not take effect during that time.~~

~~(2) (A) If the Governor issues a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, then no cost-of-living adjustment or rate increase funded in the annual Budget Act for that fiscal year shall take effect until the Legislature passes and sends to the Governor a bill or bills to address the fiscal emergency.~~

~~(B) Commencing with the 2009–10 fiscal year, the annual Budget Act shall include a section specifying the cost-of-living adjustments or rate increases included in the Budget Act or authorized by other statutes which may be suspended pursuant to this paragraph.~~

~~(d) The Director of Finance shall report to the Chair of the Joint Legislative Budget Committee and the chairs of the committees of each house of the Legislature that consider appropriations not less than 30 days prior to making reductions pursuant to this section. The report shall list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction.~~

~~(e) Cost-of-living adjustments for purposes of this section shall not include any apportionments made to fund a cost-of-living adjustment to augment appropriations made pursuant to Section 2558 of the Education Code, for county office of education revenue limits, or Section 42238 of the Education Code, for school district revenue limits, nor shall it include a cost-of-living adjustment negotiated in a collective bargaining agreement with a recognized state employee organization.~~

~~(f) Nothing within this section shall be construed to confer any authority upon the Director of Finance to modify or eliminate any provision of existing law.~~

~~(g) This section shall only become operative if either Senate Constitutional Amendment 1 or Assembly Constitutional~~

~~Amendment 1 in the 2009–10 Third Extraordinary Session is submitted to, and approved by, the voters at a statewide election.~~

SEC. 195. Section 13956 of the Government Code is amended to read:

13956. Notwithstanding Section 13955, a person ~~shall~~ *is* not ~~be~~ eligible for compensation under the following conditions:

(a) An application shall be denied if the board finds that the victim or, if compensation is sought by or on behalf of a derivative victim, either the victim or derivative victim, knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought pursuant to this chapter. However, this subdivision ~~shall~~ *does* not apply if the injury or death occurred as a direct result of a crime committed in violation of Section 261, 262, or 273.5 of, or a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of, the Penal Code.

(b) (1) An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. However, in determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors.

(2) An application for a claim based on domestic violence shall not be denied solely because no police report was made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Factors evidencing that a domestic violence crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of domestic violence, mental

health records, or the fact that the victim has obtained a temporary or permanent restraining order, or all of these.

(3) An application for a claim based on human trafficking as defined in Section 236.1 of the Penal Code shall not be denied solely because ~~no~~ *a* police report was *not* made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on human trafficking relying upon evidence other than a police report to establish that a human trafficking crime as defined in Section 236.1 of the Penal Code has occurred. That evidence may include any reliable corroborating information approved by the board, including, but not limited to, the following:

(A) A Law Enforcement Agency Endorsement issued pursuant to Section 236.2 of the Penal Code.

(B) A human trafficking caseworker as identified in Section 1038.2 of the Evidence Code, has attested by affidavit that the individual was a victim of human trafficking.

(4) (A) An application for a claim by a military personnel victim based on a sexual assault by another military personnel shall not be denied solely because it was not reported to a superior officer or law enforcement at the time of the crime.

(B) Factors that the board shall consider for purposes of determining if a claim qualifies for compensation include, but are not limited to, ~~the~~ evidence of the following:

(i) Restricted or unrestricted reports to a military victim advocate, sexual assault response coordinator, chaplain, attorney, or other military personnel.

(ii) Medical or physical evidence consistent with sexual assault.

(iii) A written or oral report from military law enforcement or a civilian law enforcement agency concluding that a sexual assault crime was committed against the victim.

(iv) A letter or other written statement from a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, licensed therapist, or mental health counselor, stating that the victim is seeking services related to the allegation of sexual assault.

(v) A credible witness to whom the victim disclosed the details that a sexual assault crime occurred.

(vi) A restraining order from a military or civilian court against the perpetrator of the sexual assault.

(vii) Other behavior by the victim consistent with sexual assault.

(C) For purposes of this subdivision, the sexual assault at issue shall have occurred during military service, including deployment.

(D) For purposes of this subdivision, the sexual assault may have been committed offbase.

(E) For purposes of this subdivision, a "perpetrator" means an individual who is any of the following at the time of the sexual assault:

(i) An active duty military personnel from the United States Army, Navy, Marine Corps, Air Force, or Coast Guard.

(ii) A civilian employee of any military branch specified in clause (i), military base, or military deployment.

(iii) A contractor or agent of a private military or private security company.

(iv) A member of the California National Guard.

(F) For purposes of this subdivision, "sexual assault" means an offense included in Section 261, 262, 264.1, 286, 288a, or 289 of the Penal Code, as of the date the act that added this paragraph was enacted.

(c) An application for compensation may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime or the involvement of the persons whose injury or death gives rise to the application. In the case of a minor, the board shall consider the minor's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the minor's application should be denied pursuant to this section. The application of a derivative victim of domestic violence under the age of 18 years of age or a derivative victim of trafficking under 18 years of age may not be denied on the basis of the denial of the victim's application under this subdivision.

(d) (1) Notwithstanding Section 13955, no person who is convicted of a felony may be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, if any. In no case shall compensation be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution.

(2) A person who has been convicted of a felony may apply for compensation pursuant to this chapter at any time, but the award

of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

(3) Applications of victims who are not felons shall receive priority in the award of compensation over an application submitted by a felon who has met the requirements for compensation set forth in paragraph (1).

SEC. 196. The heading of Article 7 (commencing with Section 13968) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code is repealed.

~~Article 7. Miscellaneous~~

SEC. 197. Section 13994 of the Government Code is amended and renumbered to read:

~~13994.~~

13998. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Agency" means the Business, Transportation and Housing Agency.

(b) "California-based foundation" means an organization defined in the Internal Revenue Code as a private foundation, which is incorporated in, and primarily conducts its activities within, the state and receives funding in whole or in substantial part from California-based companies.

(c) "Collaborative research" means technological or scientific research that accelerates existing research toward the commercialization of products, processes, and services, and is conducted jointly or funded jointly by some or all of the following:

(1) The private sector, including intraindustry groups, California-based private foundations, industry associations, and nonprofit cooperative associations.

(2) The federal government.

(3) The state.

(4) Public or private universities, colleges, and laboratories.

(d) "Consortia" means jointly funded or jointly operated nonprofit independent research and development organizations. "Consortia development" means the establishment of consortia to manage and fund a variety of technology transfer projects within a specific technology or industry priority.

(e) "Industry association" is a nonprofit organization with a substantial presence in California whose membership consists in whole or in part of California-based companies, and whose funding is derived in whole or in part from California-based companies.

(f) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications that include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(g) "Nonprofit cooperative association" means an association, organized and operating pursuant to either Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code or Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code.

(h) "Technology" includes, but is not limited to, the application of science and engineering to research and development, especially for industrial or commercial objectives, in sectors that include telecommunications, information technologies, electronics, biochemistry, medicine, agriculture, transportation, space, and aerospace.

(i) "Technology transfer" means the movement of the results of basic or applied technological or scientific research to the design, development, and production of new or improved products, services, or processes.

SEC. 198. Section 13994.1 of the Government Code is amended and renumbered to read:

~~13994.1.~~

13998.1. (a) (1) There is within the agency the Regional Technology Alliance Program. The intent of the regional technology alliances is to decentralize the delivery of services and resources, programs and activities for technology development, commercialization, application, and competitiveness at a regional level.

(2) The agency may designate new regional technology alliances upon application to carry out activities described in this section.

(3) The agency may establish criteria for designation that includes, but need not be limited to, criteria previously established

by the Defense Conversion Council pursuant to Article 3.7 (commencing with Section 15346) of Chapter 1, as it read on December 31, 1998.

(b) Each alliance shall perform the following activities:

(1) Raise and leverage funds from multiple public and private sources to support technology development, commercialization, and application and industry competitiveness particularly in response to defense industry conversion and diversification.

(2) Assist in the formation of new businesses.

(3) Maintain an electronic network and access to databases that encourages business ventures.

(4) Coordinate with activities and efforts of industry, academia, federal laboratories, and governments.

(5) Recommend administrative actions or programs that could assist California's defense-dependent industries to successfully convert to commercial markets.

(6) Provide information about state and federal defense conversion programs, including, but not limited to, job training, economic development, industrial modernization, dual-use technology, new management techniques, and technology development and transfer.

(7) Identify emerging industries that may include commercial space applications, transportation, environment, high performance computing and communications, biotechnology and advanced materials, and processing and critical existing industries.

(c) Each alliance may also perform, but need not be limited to, the following activities:

(1) Assist in identifying businesses that could benefit from defense conversion programs and defense-dislocated workers who require employment and training opportunities.

(2) Assist and provide coordination in determining job opportunities within and outside of the defense industry for which displaced workers could be retrained and placed.

(3) Serve as a forum for industrywide networking linking producers, suppliers, and consumers.

(4) Assist individual businesses and industry consortia in applying for state and federal defense conversion program funds.

(5) Provide information and assistance in upgrading individual businesses and industrywide production and management processes.

(6) Provide information on available state and federal resources to aid businesses and workers affected by defense spending reductions, base closures, plant closures, and layoffs, to foster long-term economic vitality, industrial growth, and job opportunities.

(d) Each alliance is encouraged to develop activities that achieve the following results:

(1) Creation and retention of jobs.

(2) Creation of new businesses.

(3) Development of new commercial or dual-use products.

(4) Establishment of industry partnerships and consortia.

(5) Demonstration of productivity enhancement such as return on investment, reduced cost, employee training, and upgrades.

(6) Establishment of public and private partnerships.

(7) Commitment of industry support, participation, and capital.

(8) Leverage of state funds.

(9) Loan repayment ratio.

(10) Participation of small businesses and minority-, women-, and disabled veteran-owned businesses.

(11) Workforce training.

(e) The agency shall be authorized to enter into a contract for services with any alliance to provide services to the office. These contracts shall be sole source contracts, and exempt from the competitive bid process.

(f) During the first two years following selection of an alliance, the alliance shall monitor the performance of any application funded pursuant to Section ~~13994.2,~~ *13998.2*, and each invoice for payment shall be reviewed and approved by the alliance, but the contract for services shall be directly between the agency and the entity receiving grant funding. Commencing with the third year of designation, any alliance with procedures and processes approved by the agency shall be authorized to directly contract with grant recipients. The agency shall audit these grants on a regular basis.

SEC. 199. Section 13994.2 of the Government Code is amended and renumbered to read:

~~13994.2.~~

13998.2. (a) There is within the agency the Challenge Grant Program, consisting of technology transfer grants and defense industry conversion and diversification grants. Challenge grant

projects funded shall include, but not be limited to, the following: defense industry conversion and diversification, access to ongoing research and research findings, exchange or transfer of personnel and research support services, including capital outlay, consortia development, and collaborative research.

(b) All funds appropriated or received by the Challenge Grant Program shall administratively be divided into either the Technology Transfer Grant Program or the Defense Industry Conversion and Diversification Program. Funding awards for the Technology Transfer Grant Program shall be made pursuant to the requirements set forth in Sections ~~13994.3 and 13994.6~~ *13998.3 and 13998.6*.

(c) The agency shall award grants based upon a competitive application process addressing the project's eligibility and ability to fulfill the goals of the program.

(d) The agency shall report on this program to the Governor and the Legislature.

SEC. 200. Section 13994.3 of the Government Code is amended and renumbered to read:

~~13994.3.~~

13998.3. (a) An eligible technology transfer or defense industry conversion and diversification project shall, at least, do all of the following:

(1) Identify the sources of funding for the entire project.

(2) Not supplant other funding.

(3) Demonstrate that a significant portion of the project will be undertaken in California.

(b) In addition to the requirements contained in subdivision (a), a defense industry conversion and diversification project shall not receive more than 25 percent of the total project costs requested in the proposal.

(c) In addition to the requirements contained in subdivision (a), a technology transfer project shall:

(1) Represent a technology or industry, or both, targeted in the application.

(2) Include a significant amount of matching contributions from either of the following:

(A) A private sector company or companies.

(B) A California-based foundation or foundations, an industry association or associations, or a nonprofit cooperative association or associations.

(3) Include either of the following:

(A) A private sector company or companies that have significant operations in the state.

(B) A California-based foundation or foundations, an industry association or associations, or a nonprofit cooperative association or associations.

SEC. 201. Section 13994.4 of the Government Code is amended and renumbered to read:

~~13994.4.~~

13998.4. The technology transfer grantee shall not incur expenses to be paid with grant funds without evidence of a workable agreement between the parties participating in the project that includes at least both of the following:

(a) A resolution of the intellectual property rights relative to the project.

(b) A direct and ongoing involvement of the public and private sectors, when applicable in the project.

SEC. 202. Section 13994.5 of the Government Code is amended and renumbered to read:

~~13994.5.~~

13998.5. (a) In awarding technology transfer grants, the agency shall consider the following:

(1) The likelihood of commercialization of a product, service, or process.

(2) The potential impact on the state's economy.

(3) The cost-effectiveness of the project.

(4) The importance of state funding for the viability of the project.

(5) Cost sharing by other participants.

(6) The involvement of small businesses and minority-, disabled veteran-, and women-owned businesses.

(7) Projects that will result in a prototype by the end of the grant period.

(8) Other criteria that the agency determines are consistent with the purposes of the program.

(b) The agency shall target industries and technologies with a potential for enhancing the California economy, and shall fund projects within those industries and utilizing those technologies.

SEC. 203. Section 13994.6 of the Government Code is amended and renumbered to read:

~~13994.6.~~

13998.6. Technology transfer projects may include reasonable overhead costs incurred by a research institute and related to the project that shall not exceed the allowable federal overhead costs for research. All other projects may include any costs authorized by the principal funding agency, and not precluded by state requirements.

SEC. 204. Section 13994.7 of the Government Code is amended and renumbered to read:

~~13994.7.~~

13998.7. Except for defense industry conversion and diversification projects, only a public agency or a not-for-profit or nonprofit organization shall receive funds under this chapter. Any person or entity is authorized to receive a defense industry conversion and diversification grant.

SEC. 205. Section 13994.8 of the Government Code is amended and renumbered to read:

~~13994.8.~~

13998.8. (a) The agency may obtain scientific and technological expertise as needed to provide advice and input on the program, the establishment of targeted technologies and industries, the review of grant applications, and the review of project performance.

(b) The agency may award funds over a multiyear period to a grantee without requiring the grantee to reapply, so long as the funds in multiple years are utilized for the same project originally funded.

SEC. 206. Section 13994.9 of the Government Code is amended and renumbered to read:

~~13994.9.~~

13998.9. (a) Notwithstanding Sections 13994.2, 13994.3, 13994.4, and 13994.5, and the regulations implementing this chapter, the secretary may award discretionary technology transfer grants totaling not more than 5 percent or one hundred thousand

dollars ($100,000), whichever is greater, of the funds appropriated each year for this program.

(b) Notwithstanding Sections ~~13994.2, 13994.3, 13994.4, 13994.5,~~ *13998.2, 13998.3, 13998.4, 13998.5,* and subdivision (a) of this section, the secretary may award up to 15 percent of the funds appropriated for a given fiscal year for consortia development projects that do not have private sector match but will have private sector match within six months from the date of the award of funding. For purposes of this subdivision, "private sector match" means a cash or in-kind contribution available for expenditure or use to a consortium development project. If, after six months, ~~no~~ *a* private sector match is *not* available, funding under the program shall cease and all moneys previously received shall be returned to the state.

SEC. 207. Section 13994.10 of the Government Code is amended and renumbered to read:

~~13994.10.~~

13998.10. (a) In order to carry out this chapter, there is hereby created in the State Treasury the California Competitive Technology Fund.

(b) The fund shall receive state funds appropriated to it, contributions from nonstate sources, reimbursements, federal funds, and interest that accrues to the moneys in the fund pursuant to subdivision (c).

(c) The Treasurer shall invest moneys contained in the fund not needed to meet current obligations in the same manner as other public funds are invested.

(d) Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the agency for the purposes of this chapter, and for the purposes for which moneys were provided. Except for state funds appropriated to, or transferred into, the fund for local assistance, moneys in the fund, including all interest, may be spent for support.

SEC. 208. Section 13994.11 of the Government Code is amended and renumbered to read:

~~13994.11.~~

13998.11. The agency shall report on this program to the Governor and the Legislature.

SEC. 209. Section 13994.12 of the Government Code is amended and renumbered to read:

~~13994.12.~~

13998.12. There is hereby established within the agency the Technology Planning Program. The program shall provide grants and technical assistance to California nonprofit organizations and public entities working within specific industries to identify conversion or expansion projects. Grants may be awarded in the areas of strategic planning and strategic alliances. The program shall award grants based upon a competitive application process addressing the project's eligibility, a review of the proposal's scientific and technological aspects, and ability to fulfill goals of the program. Priority shall be given to those projects with the identified support of industry representatives, matching funding, projects likely to receive federal funds requiring matching funds, and any other criteria determined by the agency. A project example is a joint effort to develop and commercialize defense-related technologies by federal laboratories, universities, and companies in close geographical proximity.

SEC. 210. Section 14254.5 of the Government Code is repealed.

~~14254.5. "Department," as used in this chapter, means (a) the Department of Water Resources as to any project under the jurisdiction of that department, (b) the Department of General Services as to any project under the jurisdiction of that department, (c) the Department of Boating and Waterways as to any project under the jurisdiction of that department pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code, (d) the Department of Corrections with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, and (e) the Department of Transportation as to all other projects.~~

~~"Director," as used in this chapter, means the director of each department as defined herein respectively.~~

SEC. 211. Section 14670.2 of the Government Code, as added by Section 2 of Chapter 681 of the Statutes of 2007, is amended and renumbered to read:

~~14670.2.~~

14670.22. (a) Notwithstanding any other provision of law, the Director of General Services, with the consent of the Department of Motor Vehicles, may lease or exchange, if the director deems

the leasing or exchanging to be in the best interest of the state, for a term of years, as determined by the director, and for fair market value, all or portions of parcels of real property, that are acquired and used by the state for the benefit of the Department of Motor Vehicles, as described in subdivision (b), for the purpose of developing mixed public and private use facilities, including adequate parking for the Department of Motor Vehicles field office, as determined by that department, subject to all of the following conditions:

(1) All proceeds from the lease or exchange of the Department of Motor Vehicles property shall be deposited into the Motor Vehicle Account in the State Transportation Fund and shall be available for expenditure by the Department of Motor Vehicles.

(2) Each lease shall provide that the lessee may sublease for commercial, retail or residential uses that portion of the developed property that is not required for use of the state.

(3) A mixed-use facility developed pursuant to this section shall be located at the current state-owned site unless there are mitigating circumstances requiring relocation. If relocation does become necessary, the replacement facility shall be located within the geographic area that serves the current customer base.

(b) For purposes of this section, the following parcels of real properties may be leased or exchanged pursuant to subdivision (a):

(1) A parcel of real property located at 1377 Fell Street, San Francisco.

(2) 3960 Normal Street, San Diego, provided that any lease or exchange of property shall include a condition that a local farmer's market may continue to conduct regular business.

(3) 8629 Hellman Avenue, Rancho Cucamonga.

(c) The Department of General Services and the Department of Motor Vehicles, jointly, shall notify the Joint Legislative Budget Committee when the Department of General Services, with the consent of the Department of Motor Vehicles, enters into any lease for a period of 30 years or more and shall report to the committee the terms and conditions of any lease at least 45 days prior to entering into that lease.

(d) Any lease or exchange of properties carried out pursuant to this section shall be for no less than fair market value and upon terms and conditions that the Director of General Services

determines to be in the best interest of the state. Compensation for the property may include land, improvements, money, or any combination thereof.

(e) The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition or lease of any parcels described in this section by the Department of Motor Vehicles or from the proceeds of the lease or exchange of those parcels.

(f) ~~None of the~~ *The* properties identified in this section ~~shall be~~ *are not* subject to Section 11011.1 or Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, and the properties shall be or have been offered to the public through a competitive process determined by the director to be in the best interest of the state.

SEC. 212. The heading of Article 18 (commencing with Section 14717) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code is amended and renumbered to read:

Article ~~18.~~*8.* ~~[Article 8.]~~ Integrated Pest Management

SEC. 213. The heading of Chapter 4 (commencing with Section 14730) of Part 5.5 of Division 3 of Title 2 of the Government Code is repealed.

~~Chapter 4. Inventory of Proprietary Lands~~

SEC. 214. Section 14829.2 of the Government Code is repealed.

~~14829.2. This article shall remain in effect until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date, or unless the Director of General Services determines that as of December 1, 1987, the programs established by this article are self-supporting and notifies the Joint Legislative Budget Committee of that determination.~~

SEC. 215. Section 15155 of the Government Code is amended to read:

15155. The committee shall consist of representatives from the following organizations:

~~(1)~~

(a) Two representatives from the *California* Peace Officers' Association ~~of the State of California~~.

~~(2)~~

(b) One representative from the California State Sheriffs' Association.

~~(3)~~

(c) One representative from the League of California Cities.

~~(4)~~

(d) One representative from the County Supervisors Association of California.

~~(5)~~

(e) One representative from the Department of Justice.

~~(6)~~

(f) One representative from the Department of Motor Vehicles.

~~(7)~~

(g) One representative from the Office of Emergency Services.

~~(8)~~

(h) One representative from the *Department of the* California Highway Patrol.

~~(9)~~

(i) One representative from the California Police Chiefs Association.

SEC. 216. Section 15814.22 of the Government Code is amended to read:

15814.22. The Department of General Services, in consultation with the ~~California~~ *State* Energy Resources Conservation and Development Commission and other state agencies and departments, shall develop a multiyear plan, to be updated biennially, with the goal of exploiting all practicable and cost-effective energy efficiency measures in state facilities. The department shall coordinate plan implementation efforts, and make recommendations to the Governor and the Legislature to achieve energy efficiency goals for state facilities.

SEC. 217. Section 16183 of the Government Code is amended to read:

16183. (a) ~~(1)~~ From the time a payment is made pursuant to Section 16180, the amount of that payment shall bear interest at a rate (not compounded), determined as follows:

(1) Beginning July 1, 2016, the rate of interest shall be 7 percent per annum.

(2) The Controller shall establish an adjusted rate of interest for the purpose of this subdivision not later than July 15th of any year if the effective annual yield of the Pooled Money Investment Account for the prior fiscal year is at least a full percentage point more or less than the interest rate which is then in effect. The adjusted rate of interest shall be equal per annum to the effective annual yield earned in the prior fiscal year by the Pooled Money Investment Account rounded to the nearest full percent, and shall become effective for new deferrals, beginning on July 1, 1984, and on July 1 of each immediately succeeding year, until June 30, 2016.

(3) The rate of interest provided pursuant to this subdivision for the first fiscal year commencing after payment is made pursuant to Section 16180 shall apply for that fiscal year and each fiscal year thereafter until these postponed property taxes are repaid.

(b) The interest provided for in subdivision (a) shall be applied beginning the first day of the month following the month in which that payment is made and continuing on the first day of each month thereafter until that amount is paid. In the event that any payments are applied, in any month, to reduce the amount paid pursuant to Section 16180, the interest provided for herein shall be applied to the balance of that amount beginning on the first day of the following month.

(c) In computing interest in accordance with this section, fractions of a cent shall be disregarded.

(d) For the purpose of this section, the time a payment is made shall be deemed to be the time a certificate of eligibility is countersigned by the tax collector or the delinquency date of the respective tax installment, whichever is later.

(e) The Controller shall include on forms supplied to claimants pursuant to Sections 20621, 20630.5, 20639.9, 20640.9, and 20641 of the Revenue and Taxation Code, a statement of the interest rate which shall apply to amounts postponed for the fiscal year to which the form applies.

SEC. 218. Article 12 (commencing with Section 16429.30) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code is repealed.

SEC. 219. Section 17581.6 of the Government Code is amended to read:

17581.6. (a) Funding apportioned pursuant to this section shall constitute reimbursement pursuant to Section 6 of Article XIII B of the California Constitution for the performance of any state mandates included in the statutes and executive orders identified in subdivision (e).

(b) Any school district, county office of education, or charter school may elect to receive block grant funding pursuant to this section.

(c) (1) A school district, county office of education, or charter school that elects to receive block grant funding pursuant to this section in a given fiscal year shall submit a letter requesting funding to the Superintendent of Public Instruction on or before August 30 of that fiscal year.

(2) The Superintendent of Public Instruction shall, in the month of November of each year, apportion block grant funding appropriated pursuant to Item 6110-296-0001 of Section 2.00 of the annual Budget Act to all school districts, county offices of education, and charter schools that submitted letters requesting funding in that fiscal year according to the provisions of that item.

(3) A school district or county office of education that receives block grant funding pursuant to this section shall not be eligible to submit claims to the Controller for reimbursement pursuant to Section 17560 for any costs of any state mandates included in the statutes and executive orders identified in subdivision (e) incurred in the same fiscal year during which the school district or county office of education received funding pursuant to this section.

(d) Block grant funding apportioned pursuant to this section is subject to annual financial and compliance audits required by Section 41020 of the Education Code.

(e) Block grant funding apportioned pursuant to this section is specifically intended to fund the costs of the following programs and activities:

(1) Academic Performance Index (01-TC-22; Chapter 3 of the Statutes of 1999, First Extraordinary Session; and Chapter 695 of the Statutes of 2000).

(2) Agency Fee Arrangements (00-TC-17 and 01-TC-14; Chapter 893 of the Statutes of 2000 and Chapter 805 of the Statutes of 2001).

(3) AIDS Instruction and AIDS Prevention Instruction (CSM 4422, 99-TC-07, and 00-TC-01; Chapter 818 of the Statutes of 1991; and Chapter 403 of the Statutes of 1998).

(4) California State Teachers' Retirement System (CalSTRS) Service Credit (02-TC-19; Chapter 603 of the Statutes of 1994; Chapters 383, 634, and 680 of the Statutes of 1996; Chapter 838 of the Statutes of 1997; Chapter 965 of the Statutes of 1998; Chapter 939 of the Statutes of 1999; and Chapter 1021 of the Statutes of 2000).

(5) Caregiver Affidavits (CSM 4497; Chapter 98 of the Statutes of 1994).

(6) Charter Schools I, II, and III (CSM 4437, 99-TC-03, and 99-TC-14; Chapter 781 of the Statutes of 1992; Chapters 34 and 673 of the Statutes of 1998; Chapter 34 of the Statutes of 1998; and Chapter 78 of the Statutes of 1999).

(7) Charter Schools IV (03-TC-03; Chapter 1058 of the Statutes of 2002).

(8) Child Abuse and Neglect Reporting (01-TC-21: Chapters 640 and 1459 of the Statutes of 1987; Chapter 132 of the Statutes of 1991; Chapter 459 of the Statutes of 1992; Chapter 311 of the Statutes of 1998; Chapter 916 of the Statutes of 2000; and Chapters 133 and 754 of the Statutes of 2001).

(9) Collective Bargaining (CSM 4425; Chapter 961 of the Statutes of 1975).

(10) Comprehensive School Safety Plans (98-TC-01 and 99-TC-10; Chapter 736 of the Statutes of 1997; Chapter 996 of the Statutes of 1999; and Chapter 828 of the Statutes of 2003).

(11) Consolidation of Annual Parent Notification/Schoolsite Discipline Rules/Alternative Schools (CSM 4488, CSM 4461, 99-TC-09, 00-TC-12, 97-TC-24, CSM 4453, CSM 4474, CSM 4462; Chapter 448 of the Statutes of 1975; Chapter 965 of the Statutes of 1977; Chapter 975 of the Statutes of 1980; Chapter 469 of the Statutes of 1981; Chapter 459 of the Statutes of 1985; Chapters 87 and 97 of the Statutes of 1986; Chapter 1452 of the Statutes of 1987; Chapters 65 and 1284 of the Statutes of 1988; Chapter 213 of the Statutes of 1989; Chapters 10 and 403 of the Statutes of 1990; Chapter 906 of the Statutes of 1992; Chapter 1296 of the Statutes of 1993; Chapter 929 of the Statutes of 1997; Chapters 846 and 1031 of the Statutes of 1998; Chapter 1 of the Statutes of 1999, First Extraordinary Session; Chapter 73 of the

Statutes of 2000; Chapter 650 of the Statutes of 2003; Chapter 895 of the Statutes of 2004; and Chapter 677 of the Statutes of 2005).

(12) Consolidation of Law Enforcement Agency Notification and Missing Children Reports (CSM 4505; Chapter 1117 of the Statutes of 1989 and 01-TC-09; Chapter 249 of the Statutes of 1986; and Chapter 832 of the Statutes of 1999).

(13) Consolidation of Notification to Teachers: Pupils Subject to Suspension or Expulsion I and II, and Pupil Discipline Records (00-TC-10 and 00-TC-11; Chapter 345 of the Statutes of 2000).

(14) County Office of Education Fiscal Accountability Reporting (97-TC-20; Chapters 917 and 1452 of the Statutes of 1987; Chapters 1461 and 1462 of the Statutes of 1988; Chapter 1372 of the Statutes of 1990; Chapter 1213 of the Statutes of 1991; Chapter 323 of the Statutes of 1992; Chapters 923 and 924 of the Statutes of 1993; Chapters 650 and 1002 of the Statutes of 1994; and Chapter 525 of the Statutes of 1995).

(15) Criminal Background Checks (97-TC-16; Chapters 588 and 589 of the Statutes of 1997).

(16) Criminal Background Checks II (00-TC-05; Chapters 594 and 840 of the Statutes of 1998; and Chapter 78 of the Statutes of 1999).

(17) Developer Fees (02-TC-42; Chapter 955 of the Statutes of 1977; Chapter 282 of the Statutes of 1979; Chapter 1354 of the Statutes of 1980; Chapter 201 of the Statutes of 1981; Chapter 923 of the Statutes of 1982; Chapter 1254 of the Statutes of 1983; Chapter 1062 of the Statutes of 1984; Chapter 1498 of the Statutes of 1985; Chapters 136 and 887 of the Statutes of 1986; and Chapter 1228 of the Statutes of 1994).

(18) Differential Pay and Reemployment (99-TC-02; Chapter 30 of the Statutes of 1998).

(19) Expulsion of Pupil: Transcript Cost for Appeals (SMAS; Chapter 1253 of the Statutes of 1975).

(20) Financial and Compliance Audits (CSM 4498 and CSM 4498-A; Chapter 36 of the Statutes of 1977).

(21) Graduation Requirements (CSM 4181; Chapter 498 of the Statutes of 1983).

(22) Habitual Truants (CSM 4487 and CSM 4487-A; Chapter 1184 of the Statutes of 1975).

(23) High School Exit Examination (00-TC-06; Chapter 1 of the Statutes of 1999, First Extraordinary Session; and Chapter 135 of the Statutes of 1999).

(24) Immunization Records (SB 90-120; Chapter 1176 of the Statutes of 1977).

(25) Immunization Records—Hepatitis B (98-TC-05; Chapter 325 of the Statutes of 1978; Chapter 435 of the Statutes of 1979; Chapter 472 of the Statutes of 1982; Chapter 984 of the Statutes of 1991; Chapter 1300 of the Statutes of 1992; Chapter 1172 of the Statutes of 1994; Chapters 291 and 415 of the Statutes of 1995; Chapter 1023 of the Statutes of 1996; and Chapters 855 and 882 of the Statutes of 1997).

(26) Interdistrict Attendance Permits (CSM 4442; Chapters 172 and 742 of the Statutes of 1986; Chapter 853 of the Statutes of 1989; Chapter 10 of the Statutes of 1990; and Chapter 120 of the Statutes of 1992).

(27) Intradistrict Attendance (CSM 4454; Chapters 161 and 915 of the Statutes of 1993).

(28) Juvenile Court Notices II (CSM 4475; Chapters 1011 and 1423 of the Statutes of 1984; Chapter 1019 of the Statutes of 1994; and Chapter 71 of the Statutes of 1995).

(29) Notification of Truancy (CSM 4133; Chapter 498 of the Statutes of 1983; Chapter 1023 of the Statutes of 1994; and Chapter 19 of the Statutes of 1995).

(30) Parental Involvement Programs (03-TC-16; Chapter 1400 of the Statutes of 1990; Chapters 864 and 1031 of the Statutes of 1998; Chapter 1037 of the Statutes of 2002).

(31) Physical Performance Tests (96-365-01; Chapter 975 of the Statutes of 1995).

(32) Prevailing Wage Rate (01-TC-28; Chapter 1249 of the Statutes of 1978).

(33) Public Contracts (02-TC-35; Chapter 1073 of the Statutes of 1985; Chapter 1408 of the Statutes 1988; Chapter 330 of the Statutes of 1989; Chapter 1414 of the Statutes of 1990; Chapter 321 of the Statutes of 1990; Chapter 799 of the Statutes of 1992; and Chapter 726 of the Statutes of 1994).

(34) Pupil Health Screenings (CSM 4440; Chapter 1208 of the Statutes of 1976; Chapter 373 of the Statutes of 1991; and Chapter 750 of the Statutes of 1992).

(35) Pupil Promotion and Retention (98-TC-19; Chapter 100 of the Statutes of 1981; Chapter 1388 of the Statutes of 1982; Chapter 498 of the Statutes of 1983; Chapter 1263 of the Statutes of 1990; and Chapters 742 and 743 of the Statutes of 1998).

(36) Pupil Safety Notices (02-TC-13; Chapter 498 of the Statutes of 1983; Chapter 482 of the Statutes of 1984; Chapter 948 of the Statutes of 1984; Chapter 196 of the Statutes of 1986; Chapter 332 of the Statutes of 1986; Chapter 445 of the Statutes of 1992; Chapter 1317 of the Statutes of 1992; Chapter 589 of the Statutes of 1993; Chapter 1172 of the Statutes of 1994; Chapter 1023 of the Statutes of 1996; and Chapter 492 of the Statutes of 2000).

(37) Pupil Expulsions (CSM 4455; Chapter 1253 of the Statutes of 1975; Chapter 965 of the Statutes of 1977; Chapter 668 of the Statutes of 1978; Chapter 318 of the Statutes of 1982; Chapter 498 of the Statutes of 1983; Chapter 622 of the Statutes of 1984; Chapter 942 of the Statutes of 1987; Chapter 1231 of the Statutes of 1990; Chapter 152 of the Statutes of 1992; Chapters 1255, 1256, and 1257 of the Statutes of 1993; and Chapter 146 of the Statutes of 1994).

(38) Pupil Expulsion Appeals (CSM 4463; Chapter 1253 of the Statutes of 1975; Chapter 965 of the Statutes of 1977; Chapter 668 of the Statutes of 1978; and Chapter 498 of the Statutes of 1983).

(39) Pupil Suspensions (CSM 4456; Chapter 965 of the Statutes of 1977; Chapter 668 of the Statutes of 1978; Chapter 73 of the Statutes of 1980; Chapter 498 of the Statutes of 1983; Chapter 856 of the Statutes of 1985; and Chapter 134 of the Statutes of 1987).

(40) School Accountability Report Cards (97-TC-21, 00-TC-09, 00-TC-13, and 02-TC-32; Chapter 918 of the Statutes of 1997; Chapter 912 of the Statutes of 1997; Chapter 824 of the Statutes of 1994; Chapter 1031 of the Statutes of 1993; Chapter 759 of the Statutes of 1992; and Chapter 1463 of the Statutes of 1989).

(41) School District Fiscal Accountability Reporting (97-TC-19; Chapter 100 of the Statutes of 1981; Chapter 185 of the Statutes of 1985; Chapter 1150 of the Statutes of 1986; Chapters 917 and 1452 of the Statutes of 1987; Chapters 1461 and 1462 of the Statutes of 1988; Chapter 525 of the Statutes of 1990; Chapter 1213 of the Statutes of 1991; Chapter 323 of the Statutes of 1992; Chapters 923 and 924 of the Statutes of 1993; Chapters 650 and 1002 of the Statutes of 1994; and Chapter 525 of the Statutes of 1995).

(42) School District Reorganization (98-TC-24; Chapter 1192 of the Statutes of 1980; and Chapter 1186 of the Statutes of 1994).

(43) Student Records (02-TC-34; Chapter 593 of the Statutes of 1989; Chapter 561 of the Statutes of 1993; Chapter 311 of the Statutes of 1998; and Chapter 67 of the Statutes of 2000).

(44) The Stull Act (98-TC-25; Chapter 498 of the Statutes of 1983; and Chapter 4 of the Statutes of 1999).

(45) Threats Against Peace Officers (CSM 96-365-02; Chapter 1249 of the Statutes of 1992; and Chapter 666 of the Statutes of 1995).

(46) Uniform Complaint Procedures (03-TC-02; Chapter 1117 of the Statutes of 1982; Chapter 1514 of the Statutes *of* 1988; and Chapter 914 of the Statutes of 1998).

(47) Williams Case Implementation I, II, and III (05-TC-04, 07-TC-06, and 08-TC-01; Chapters 900, 902, and 903 of the Statutes of 2004; Chapter 118 of the Statutes of 2005; Chapter 704 of the Statutes of 2006; and Chapter 526 of the Statutes of 2007).

(48) Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils (96-358-03, 03A, 98-TC-22, 01-TC-18, 98-TC-23, 97-TC-09; Chapters 972 and 974 of the Statutes of 1995; Chapters 915, 937, and 1052 of the Statutes of 1996; Chapter 637 of the Statutes of 1997; Chapter 498 of the Statutes of 1998; Chapter 332 of the Statutes of 1999; Chapter 147 of the Statutes of 2000; and Chapter 116 of the Statutes of 2001).

(f) Notwithstanding Section 10231.5, on or before November 1 of each fiscal year, the Superintendent of Public Instruction shall produce a report that indicates the total amount of block grant funding each school district, county office of education, and charter school received in that fiscal year pursuant to this section. The Superintendent of Public Instruction shall provide this report to the appropriate fiscal and policy committees of the Legislature, the Controller, the Department of Finance, and the Legislative Analyst's Office.

SEC. 220. Section 18720.45 of the Government Code is amended to read:

18720.45. Employment forms used by a state agency shall require a person applying for employment to disclose whether the person has entered into an agreement with the state regarding any previous employment with the state ~~and~~ that ~~agreement~~ prohibits

that person from seeking or accepting any subsequent employment with the state.

SEC. 221. The heading of Chapter 5.5 (commencing with Section 19994.20) of Part 2.6 of Division 5 of Title 2 of the Government Code is repealed.

~~Chapter 5.5. Accident Reduction Incentive Program~~

SEC. 222. Section 19995.5 of the Government Code, as added by Section 71 of Chapter 446 of the Statutes of 1999, is repealed.

~~19995.5. (a) There is hereby created in the State Treasury, the State Employee Scholarship Fund to which funds shall be allocated from the amount negotiated in memoranda of understanding between the state and recognized employee organizations, as defined in Section 3513, and appropriated by the Legislature for the 2000–01 fiscal year.~~

~~(b) The fund shall be used to establish a program for career advancement to assist eligible state employees to participate in educational programs that will enhance the personal growth and career development of employees in state government.~~

~~(c) The fund shall be administered by the Department of Personnel Administration. The amounts to be allocated and expended from funds available for compensation shall be determined by the department.~~

~~(d) Notwithstanding Section 13340, moneys in the fund shall be available for expenditure without regard to fiscal years through June 30, 2001. As of June 30, 2001, the fund shall cease to exist unless the existence of the fund is extended by statute and that statute is enacted prior to June 30, 2001.~~

SEC. 223. Section 22960.51 of the Government Code, as added by Section 3 of Chapter 790 of the Statutes of 2014, is amended and renumbered to read:

~~22960.51.~~

22960.52. Consistent with the requirements of Section 401(a)(2) of the Internal Revenue Code (26 U.S.C. Sec. 401(a)(2)), the corpus or income of the plan's trust shall not be diverted to, or used for, purposes other than the exclusive benefit of the members or their beneficiaries nor shall there be a reversion of trust funds except as permitted by Revenue Ruling 91-4, 1991-1 C.B. 57, by the Internal Revenue Service.

SEC. 224. Section 31685.96 of the Government Code, as added by Section 2 of Chapter 670 of the Statutes of 1994, is amended and renumbered to read:

~~31685.96.~~

31685.97. This article shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make this article applicable in the county.

SEC. 225. Section 43009 of the Government Code, as added by Section 5 of Chapter 752 of the Statutes of 1995, is repealed.

~~43009. In exercising its discretion to waive the security deposit authorized by subdivision (b) of Section 43008, a utility shall consider the creditworthiness of the transferee, and any other factors determined by the utility.~~

SEC. 226. Section 53216.8 of the Government Code, as amended by Section 156 of Chapter 62 of the Statutes of 2003, is amended and renumbered to read:

~~53216.8.~~

53216.9. (a) Any former member who left the service of a local agency with established reciprocity, and who became a member of a county retirement system, a retirement system established under the Public Employees' Retirement Law, or another reciprocal retirement system and who did not elect to, or was not eligible to, leave his or her contributions on deposit, may elect to redeposit those contributions if he or she is an active member of a reciprocal retirement system or the Public Employees' Retirement System at the time of redeposit. A former member may exercise this right by redepositing in the retirement fund of the local agency he or she left, the amount of accumulated contributions and interest that he or she withdrew from that retirement fund plus regular interest thereon from the date of separation.

(b) A former member who redeposits under this section shall have the same rights as a member who elected to leave his or her accumulated contributions on deposit in the local agency's fund. The deferred retirement allowance of the member shall be determined in accordance with provisions applicable to a member retiring directly from local agency employment on the date of his or her retirement.

(c) A former member who redeposits under this section shall be entitled to a reduced age at entry, commencing with

contributions payable the first day of the month following the date the local agency receives notice of the redeposit, if applicable.

(d) This section does not apply to either of the following:

(1) A member or former member who is retired.

(2) A former member who is not in the service of an employer making him or her a member of a county retirement system, a retirement system established under the Public Employees' Retirement Law, or another reciprocal retirement system.

(e) This section ~~shall~~ only ~~apply~~ *applies* to either of the following:

(1) A former member who is in the service of an employer as an officer or employee of a law enforcement agency or fire department whose principal duties consist of active law enforcement or firefighting and prevention service, but excluding one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(2) A former member who is in the service of an employer and seeks to redeposit contributions for past employment as an officer or employee of a law enforcement agency or fire department in this system whose principal duties consisted of active law enforcement or firefighting and prevention service, but excluding one whose principal duties were those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions did not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee was subject to occasional call, or was occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(f) For purposes of this section, a "former member" is a member who left service under a retirement system established under this article and who did not elect to, or was not eligible to, leave his or her contributions on deposit.

(g) Each retirement system subject to this section shall establish criteria to determine the eligibility of a former member to redeposit contributions, and the amount of contributions that may be

redeposited, in those cases in which the system no longer maintains complete records with respect to the former member.

(h) It is the intent of the Legislature in enacting this section to recognize a statewide public obligation to all those whose duties as local public safety officers expose them to more than ordinary risks through their contribution to ensuring public safety and to ensure that those who do serve or have served as local public safety officers shall have the ability to receive pension benefits for past public service in other jurisdictions within the state.

SEC. 227. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(2) The facilities need not be physically located within the boundaries of the district. However, any facilities financed outside of a district must have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district ~~may~~ *shall* not finance routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of low and moderate income, as defined in Section 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division ~~2~~ *1* of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of low or moderate incomes as defined in Section 50093 of the Health and

Safety Code, and those onsite facilities for child care, after-school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code), and finance any action necessary to implement that act.

SEC. 228. Section 53398.75 of the Government Code is amended to read:

53398.75. (a) Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the enhanced infrastructure financing district each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance adopted pursuant to Section 53398.69 to create the district, shall be divided as follows:

(1) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted pursuant to Section 53398.69 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(2) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city or county and each affected taxing entity that has agreed to participate pursuant to Section 53398.68 in excess of the amount specified in ~~subdivision (a)~~ *paragraph (1)* shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in ~~subdivision (a),~~ *paragraph (1),* all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the district ceases to exist pursuant to the adopted

infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

(b) Notwithstanding subdivision (a), where any district boundaries overlap with the boundaries of any former redevelopment project area, any debt or obligation of a district shall be subordinate to any and all enforceable obligations of the former redevelopment agency, as approved by the Oversight Board and the Department of Finance. For the purposes of this chapter, the division of taxes allocated to the district pursuant to subdivision (a) of this section or of subdivision (b) of Section 53396 shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund created pursuant to subdivision (b) of Section 34170.5 of the Health and Safety Code.

(c) The legislative body of the city or county forming the district may choose to dedicate any portion of its net available revenue to the district through the financing plan described in Section 53398.63.

(d) For the purposes of this section, "net available revenue" means periodic distributions to the city or county from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5 of the Health and Safety Code, that are available to the city or county after all preexisting legal commitments and statutory obligations funded from that revenue are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. "Net available revenue" shall not include any funds deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund or funds remaining in the Redevelopment Property Tax Trust Fund prior to distribution. Net available revenues shall not include any moneys payable to a school district that maintains kindergarten and grades 1 to 12, inclusive, community college districts, county office of education, or to the Educational Revenue Augmentation Fund, pursuant to paragraph (4) of subdivision (a) of Section 34183 of the Health and Safety Code.

(e) (1) That portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to Section 97.70 of the Revenue and Taxation Code that is specified in the adopted

infrastructure financing plan for the city or county that has agreed to participate pursuant to Section 53398.68, and that corresponds to the increase in the assessed valuation of taxable property shall be allocated to, and when collected shall be apportioned to a special fund of the district for all lawful purposes of the district.

(2) When the district ceases to exist pursuant to the adopted infrastructure financing plan, the revenues described in this subdivision shall be allocated to, and when collected, shall be apportioned to the respective city or county.

(f) This section shall not be construed to prevent a district from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the infrastructure financing plan has been approved pursuant to Section 53398.69:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(3) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(4) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(5) The Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code).

(6) The Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code).

(7) The Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code).

(8) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title).

(9) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of this title).

(10) The so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

SEC. 229. Section 56378 of the Government Code is amended to read:

56378. (a) In addition to its other powers, the commission shall initiate and make studies of existing governmental agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may request land use information, studies, joint powers agreements, and plans of cities, counties, districts, including school districts, community college districts, joint powers agencies and joint powers authorities, regional agencies, and state agencies and departments. Cities, counties, districts, including school districts, community college districts, joint powers agencies and joint powers authorities, regional agencies, and state agencies and departments, shall comply with the request of the commission for that information and the commission shall make its studies available to public agencies and any interested person. In making these studies, the commission may cooperate with the county planning commissions.

(b) The commission, or the board of supervisors on behalf of the commission, may apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state or federal government or from a local government.

SEC. 230. Section 65080.1 of the Government Code, as added by Section 3 of Chapter 375 of the Statutes of 2007, is amended and renumbered to read:

~~65080.1.~~

65080.6. Each transportation planning agency designated under Section 29532 or 29532.1 whose jurisdiction includes a portion of the California Coastal Trail, or property designated for the trail, that is located within the coastal zone, as defined in Section 30103 of the Public Resources Code, shall coordinate with the State Coastal Conservancy, the California Coastal Commission, and the Department of Transportation regarding development of the California Coastal Trail, and each transportation planning agency shall include provisions for the California Coastal Trail in its regional plan, under Section 65080.

SEC. 231. Section 65352.5 of the Government Code is amended to read:

65352.5. (a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply or management agencies and California's land use approval agencies to ensure that proper water supply and management planning occurs to accommodate projects that will result in increased demands on water supplies or impact water resource management.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies and the impact of land use decisions on the management of California's water supply resources.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(d) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a groundwater sustainability agency, as defined in Section 10721 of the Water Code, or an entity that submits an alternative under Section 10733.6 *of the Water Code* shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its groundwater sustainability plan or alternative adopted pursuant to Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code.

(2) If the groundwater sustainability agency manages groundwater pursuant to a court order, judgment, decree, or agreement among affected water rights holders, or if the State Water Resources Control Board has adopted an interim plan pursuant to Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6 of the Water Code, the groundwater sustainability agency shall provide the planning agency with maps of recharge basins and percolation ponds, extraction limitations, and other relevant information, or the court order, judgment, or decree.

(3) A report on the anticipated effect of proposed action to adopt or substantially amend a general plan on implementation of a groundwater sustainability plan pursuant to Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code.

SEC. 232. Section 65583.2 of the Government Code, as amended by Chapter 883 of the Statutes of 2014, is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2023, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing

and Community Development, the Senate Committee on Transportation and Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided ~~twice,~~ *twice:* once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, and a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in ~~a~~ *an* MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites

designated for residential use and for which nonresidential uses or mixed-uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marin Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) This section shall remain in effect only until December 31, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2023, deletes or extends that date.

SEC. 233. Section 65995.7 of the Government Code is amended to read:

65995.7. (a) ~~(1)~~ If state funds for new school facility construction are not available, the governing board of a school district that complies with Section 65995.5 may increase the alternative fee, charge, dedication, or other requirement calculated pursuant to subdivision (c) of Section 65995.5 by an amount that may not exceed the amount calculated pursuant to subdivision (c) of Section 65995.5, except that for the purposes of calculating this additional amount, the amount identified in paragraph (2) of subdivision (c) of Section 65995.5 may not be subtracted from the amount determined pursuant to paragraph (1) of subdivision (c)

of Section 65995.5. For purposes of this section, state funds are not available if the State Allocation Board is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction. Upon making a determination that state funds are no longer available, the State Allocation Board shall notify the Secretary of the Senate and the Chief Clerk of the Assembly, in writing, of that determination and the date when state funds are no longer available for publication in the respective journal of each house. For the purposes of making this determination, the board shall not consider whether funds are available for, or whether it is making preliminary apportionments or final apportionments pursuant to, Article 11 (commencing with Section 17078.10).

~~(2) Paragraph (1) shall become inoperative commencing on the effective date of the measure that amended this section to add this paragraph, and shall remain inoperative through the earlier of either of the following:~~

~~(A) November 5, 2002, if the voters reject the Kindergarten University Public Education Facilities Bond Act of 2002, after which date paragraph (1) shall again become operative.~~

~~(B) The date of the 2004 direct primary election after which date paragraph (1) shall again become operative.~~

~~(3) Paragraph (1) shall become inoperative commencing on the effective date of the measure that amended this section to add this paragraph, and shall remain inoperative through December 31, 2014, after which date paragraph (1) shall again become operative, except that it may become operative sooner in either of the following circumstances:~~

~~(A) A statewide school facilities bond passes before December 31, 2014, in which case paragraph (1) shall become operative upon certification of the election in which the voters approved the bond.~~

~~(B) A statewide school facilities bond has not been placed on the ballot for the November 4, 2014, statewide general election by August 31, 2014, in which case paragraph (1) shall become operative on September 1, 2014.~~

(b) A governing board may offer a reimbursement election to the person subject to the fee, charge, dedication, or other requirement that provides the person with the right to monetary reimbursement of the supplemental amount authorized by this

section, to the extent that the district receives funds from state sources for construction of the facilities for which that amount was required, less any amount expended by the district for interim housing. At the option of the person subject to the fee, charge, dedication, or other requirement the reimbursement election may be made on a tract or lot basis. Reimbursement of available funds shall be made within 30 days as they are received by the district.

(c) A governing board may offer the person subject to the fee, charge, dedication, or other requirement an opportunity to negotiate an alternative reimbursement agreement if the terms of the agreement are mutually agreed upon.

(d) A governing board may provide that the rights granted by the reimbursement election or the alternative reimbursement agreement are assignable.

SEC. 234. The heading of Article 2 (commencing with Section 72054) of Chapter 8 of Title 8 of the Government Code is repealed.

~~Article 2. Clerk~~

SEC. 235. The heading of Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 of the Government Code is repealed.

~~Article 4. Additional Deputies~~

SEC. 236. Section 75070 of the Government Code is amended to read:

75070. In lieu of the retirement allowance for his or her life alone, a judge may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his *or her* retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75071.

That election, revocation, or change of election shall be made by a writing filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

SEC. 237. Section 75521 of the Government Code is amended to read:

75521. (a) A judge who leaves judicial office before accruing at least five years of service shall be paid the amount of his or her contributions to the system, and no other amount.

(b) A judge who leaves judicial office after accruing five or more years of service and who is not eligible to elect to retire under Section 75522 shall be paid the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution, and no other amount.

(c) Judges who leave office as described in subdivision (b) are "retired judges" for purposes of a concurrent retirement with respect to the benefits provided under Section 20639 and assignment pursuant to Article 2 (commencing with Section ~~66540~~ *68540.7*) of Chapter 2 and are eligible for benefits provided under Section 22814.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of withdrawal to the date of payment.

SEC. 238. Section 82015 of the Government Code is amended to read:

82015. (a) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b) (1) A payment made at the behest of a committee, as defined in subdivision (a) of Section 82013, is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars ($5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to ~~subdivision (a) of~~ Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar ($5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate's candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, "election-related activities" shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for elective office.

(iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clause (i), (ii), or (iii).

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

(3) A payment made at the behest of a member of the Public Utilities Commission, made principally for legislative, governmental, or charitable purposes, is not a contribution. However, payments of this type shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars ($5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the member with the Public Utilities Commission and shall be a public record subject to inspection and copying pursuant to ~~subdivision (a) of~~ Section 81008. The report shall contain the following information: name of payor, address

of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar ($5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, the Public Utilities Commission shall forward a copy of these reports to the Fair Political Practices Commission.

(c) "Contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy, other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) "Contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) "Contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f) (1) Except as provided in paragraph (2) or (3), "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

(2) "Contribution" includes a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph shall be attributable to the lobbyist for purposes of Section 85702.

(3) "Contribution" includes a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.

(g) Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(h) "Contribution" further includes the payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(1) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(2) The communication is made at the behest of the affected candidate or committee.

(i) "Contribution" further includes a payment made by a person to a multipurpose organization as defined and described in Section 84222.

SEC. 239. Section 95014 of the Government Code is amended to read:

95014. (a) The term "eligible infant or toddler" for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. ~~1431~~ *1430* et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

(1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical

and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents. A significant difference is defined as a 33-percent delay in one or more developmental areas.

(2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by ~~a~~ qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

(3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which are diagnosed by qualified personnel recognized by, or part of, a multidisciplinary team, including the parents.

(b) Regional centers and local educational agencies shall be responsible for ensuring that eligible infants and toddlers are served as follows:

(1) The State Department of Developmental Services and regional centers shall be responsible for the provision of appropriate early intervention services that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all infants eligible under ~~Section 95014,~~ *this section,* except for those infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a)~~,~~ *or* (b)~~, (d), or (e)~~ of, and Section 3031 of, Title 5 of the California Code of Regulations.

(2) The State Department of Education and local educational agencies shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal

Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a)~~,~~ *or* (b)~~, (d), or (e)~~ of, and Section 3031 of, Title 5 of the California Code of Regulations, and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) The transfer procedures and timelines, as provided under subdivision (d) of Section 4643.5 of the Welfare and Institutions Code, shall apply if the circumstances pertaining to an eligible infant or toddler are that the child (A) has an order for foster care placement, is awaiting foster care placement, or is placed in out-of-home care through voluntary placement as defined in subdivision (o) of Section 11400 of the Welfare and Institutions Code, and (B) transfers between regional centers.

(c) For infants and toddlers and their families who are eligible to receive services from both a regional center and a local educational agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local educational agencies and that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.). The local educational agency shall provide special education services up to its funded program capacity as established annually by the State Department of Education in consultation with the State Department of Developmental Services and the Department of Finance.

(d) ~~No~~ *An* agency or multidisciplinary team, including any agency listed in Section 95012, shall *not* presume or determine eligibility, including eligibility for medical services, for any other agency. However, regional centers and local educational agencies shall coordinate intake, evaluation, assessment, and individualized family service plans for infants and toddlers and their families who are served by an agency.

(e) Upon termination of the program pursuant to Section 95003, the State Department of Developmental Services shall be responsible for the payment of services pursuant to this title.

(f) This section shall become operative on January 1, 2015.

SEC. 240. The heading of Chapter 10 (commencing with Section 95030) of Title 14 of the Government Code is repealed.

~~CHAPTER 10. TERMINATION~~

SEC. 241. Section 678.3 of the Harbors and Navigation Code is amended to read:

678.3. (a) (1) The division shall determine the fees required under this section in amounts sufficient to cover the reasonable costs of the development, establishment, and operation of the program. The fees shall not exceed those costs.

(2) The division shall charge a fee not to exceed thirty dollars ($30) for the initial vessel operator card issued pursuant to subdivision (b) of Section 678.

(3) The division shall charge a fee not to exceed ten dollars ($10) for a duplicate vessel operator card issued pursuant to subdivision (b) of Section 678.

(b) In determining the amount of the fees imposed pursuant to this section, the division shall establish, and consult with, a technical advisory group consisting of interested persons, including, but not limited to, representatives of the boating community. The *deputy* director shall appoint the members of the advisory group.

(c) The fees collected pursuant to this section shall be deposited in the Vessel Operator Certification Account, which is hereby established within the Harbors and Watercraft Revolving Fund.

(d) The division may expend the moneys in the Vessel Operator Certification Account, upon appropriation by the Legislature, for purposes of implementing this article.

SEC. 242. Section 1159.1 of the Harbors and Navigation Code is repealed.

~~1159.1. The board shall impose a board operations surcharge, the purpose of which is to fully compensate the board for its official services, for the services of its staff, and for all its incidental expenses. The amount of the surcharge shall not exceed 7½ percent of all pilotage fees charged by pilots and inland pilots, unless the board establishes, with the approval of the Department of Finance, a lesser percentage. The board shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes which have occurred since the last adjustment.~~

SEC. 243. Section 1159.2 of the Harbors and Navigation Code is amended to read:

1159.2. (a) The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the board and the ~~Business,~~ Transportation ~~and Housing~~ Agency for the official services, staff services, and incidental expenses of the board and agency. The amount of the surcharge shall be 7.5 percent of all pilotage fees charged by pilots pursuant to Sections 1190 and 1191 unless the board establishes, with the approval of the Department of Finance, a lesser percentage, not to exceed any percentage consistent with subdivision (d).

(b) The surcharge shall be billed and collected by the pilots. The pilots shall pay all surcharges collected by them to the board monthly or at a later time that the board may direct.

(c) The board shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes that have occurred since the last adjustment.

(d) The board operations surcharge shall not represent a percentage significantly more than that required to support the board and any costs of the ~~Business,~~ Transportation ~~and Housing~~ Agency related to the administration of the board pursuant to subdivision (a) in addition to the maintenance of a reasonable reserve.

SEC. 244. Section 6087 of the Harbors and Navigation Code is amended to read:

6087. (a) (1) Notwithstanding the borrowing limit set forth in Section 6084, the Oxnard Harbor District may borrow money by issuance of promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of ten million dollars ($10,000,000), for the purposes of acquiring land for and constructing or operating any work, project, or facility authorized by subdivision (d) of Section 6012 or Section 6075 or for the making of improvements or the purchase of equipment or for the maintenance thereof.

(2) All moneys borrowed pursuant to this section shall ~~not~~ be borrowed for a term *not* exceeding five years, and the indebtednesses shall not ~~incur a rate of~~ *accrue* interest in excess of 12 percent per annum. The indebtedness shall be authorized by

a resolution of the board of commissioners adopted by a two-thirds vote of the members of the board.

(3) As a condition precedent to the borrowing of any money or the execution of any conditional sales contract, as provided in this section, in excess of one hundred thousand dollars ($100,000), the board shall first, by a two-thirds vote, approve by resolution and have on file a report on the engineering and economic feasibility relating to the project contemplated for the expenditure of the borrowed money or conditional sales contract. The feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the ~~State of California~~ *state*.

(4) The district shall budget, levy, and collect taxes and pay for all indebtedness without limitation by any other provision of this part.

(b) Subdivision (a) does not apply to any money borrowed from any agency or department of the United States government or of the ~~State of California~~ *state*.

SEC. 245. Section 442.5 of the Health and Safety Code is amended to read:

442.5. (a) When a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall do both of the following:

(1) Notify the patient of his or her right, or, when applicable, the right of another person authorized to make health care decisions for the patient, to comprehensive information and counseling regarding legal end-of-life options. This notification may be provided at the time of diagnosis or at a subsequent visit in which the provider discusses treatment options with the patient or the other authorized person.

(2) Upon the request of the patient or another person authorized to make health care decisions for the patient, provide the patient or other authorized person with comprehensive information and counseling regarding legal end-of-life care options pursuant to this section. When a terminally ill patient is in a health facility, as defined in Section 1250, the health care provider, or medical director of the health facility if the patient's health care provider is not available, may refer the patient or other authorized person to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care

case management and consultation to receive comprehensive information and counseling regarding legal end-of-life care options.

(b) If a patient or another person authorized to make health care decisions for the patient, requests information and counseling pursuant to paragraph (2) of subdivision (a), the comprehensive information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of disease-targeted treatment.

(3) The patient's right to refusal of or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue disease-targeted treatment, with or without concurrent palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, and other clinical treatments useful when a patient is actively dying.

(6) The patient's right to give individual health care instruction pursuant to Section 4670 of the Probate Code, which provides the means by which a patient may provide written health care instruction, such as an advance health care directive, and the patient's right to appoint a legally recognized health care decisionmaker.

(c) The information described in subdivision (b) may, but is not required to, be in writing. Health care providers may utilize information from organizations specializing in end-of-life care that provide information on factsheets and Internet Web sites to convey the information described in subdivision (b).

(d) Counseling may include, but is not limited to, discussions about the outcomes for the patient and his or her family, based on the interest of the patient. Information and counseling, as described in subdivision (b), may occur over a series of meetings with the health care provider or others who may be providing the information and counseling based on the patient's needs.

(e) The information and counseling sessions may include a discussion of treatment options in a culturally sensitive manner that the patient and his or her family, or, when applicable, another person authorized to make health care decisions for the patient, can easily understand. If the patient or other authorized person

requests information on the costs of treatment options, including the availability of insurance and eligibility of the patient for coverage, the patient or other authorized person shall be referred to the appropriate entity for that information.

(f) The notification made pursuant to paragraph (1) of subdivision (a) shall not be required if the patient or other person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient has already received the notification.

(g) For purposes of this section, "health care decisions" has the meaning set fourth in Section 4617 of the Probate Code.

(h) This section shall not be construed to interfere with the clinical judgment of a health care provider in recommending the course of treatment.

SEC. 246. Section 1317.5 of the Health and Safety Code, as amended by Section 92 of Chapter 886 of the Statutes of 1989, is repealed.

~~1317.5. (a) All alleged violations of this article and the regulations adopted hereunder shall be investigated by the state department. The state department, with the agreement of the local EMS agency, may refer violations of this article to the local EMS agency for investigation. The investigation shall be conducted pursuant to procedures established by the state department and shall be completed no later than 60 days after the report of apparent violation is received by the state department.~~

~~(b) At the conclusion of its investigation, the state department or the local EMS agency shall refer any alleged violation by a physician to the Medical Board of California unless it is determined that the complaint is without a reasonable basis.~~

SEC. 247. Section 1339.9 of the Health and Safety Code, as added by Section 1 of Chapter 716 of the Statutes of 1998, is amended and renumbered to read:

~~1339.9.~~

1339.10. (a) The ~~state~~ department may request and maintain employment information for nurse assistants and direct care staff of intermediate care facilities/developmentally disabled, other than state-operated intermediate care facilities/developmentally disabled that secure criminal record clearances for employees through another method, intermediate care facilities/developmentally

disabled-habilitative, or intermediate care facilities/developmentally disabled-nursing.

(b) Within five working days of receipt of a criminal record or information from the Department of Justice pursuant to Section 1338.5, the ~~state~~ department shall notify the licensee and applicant of any criminal convictions.

(c) The ~~state~~ department shall conduct a feasibility study to assess the additional technology requirements necessary to include previous and current employment information on its registry and to make that information available to potential employers. The ~~state~~ department shall report to the Legislature by July 1, 2000, as to the results of the study.

SEC. 248. Section 1347.5 of the Health and Safety Code is amended to read:

1347.5. (a) A health care service plan providing individual coverage in the Exchange shall cooperate with requests from the Exchange to collaborate in the development of, and participate in the implementation of, the Medi-Cal program's premium and cost-sharing payments under Sections 14102 and 14148.65 of the Welfare and Institutions Code for eligible Exchange enrollees.

(b) A health care service plan providing individual coverage in the Exchange shall not charge, bill, ask, or require an enrollee receiving benefits under Section 14102 or ~~Section~~ 14148.65 of the Welfare and Institutions Code to make any premium or cost-sharing payments for any services that are subject to premium or cost-sharing payments by the State Department of Health Care Services under Section 14102 or ~~Section~~ 14148.65 of the Welfare and Institutions Code.

(c) For purposes of this section, "Exchange" means the California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code.

SEC. 249. Section 1357.504 of the Health and Safety Code is amended to read:

1357.504. (a) With respect to small employer health care service plan contracts offered outside the Exchange, after a small employer submits a completed application form for a plan contract, the health care service plan shall, within 30 days, notify the employer of the employer's actual premium charges for that plan contract established in accordance with Section 1357.512. The

employer shall have 30 days in which to exercise the right to buy coverage at the quoted premium charges.

(b) Except as provided in subdivision (c), when a small employer submits a premium payment, based on the quoted premium charges, and that payment is delivered or postmarked, whichever occurs earlier, within the first 15 days of the month, coverage under the plan contract shall become effective no later than the first day of the following month. When that payment is neither delivered nor postmarked until after the 15th day of a month, coverage shall become effective no later than the first day of the second month following delivery or postmark of the payment.

(c) (1) With respect to a small employer health care service plan contract offered through the Exchange, a plan shall apply coverage effective dates consistent with those required under Section 155.720 of Title 45 of the Code of Federal Regulations and ~~paragraph (2)~~ of subdivision (e) of Section 1399.849.

(2) With respect to a small employer health care service plan contract offered outside the Exchange for which an individual applies during a special enrollment period described in subdivision (b) of Section 1357.503, the following provisions shall apply:

(A) Coverage under the plan contract shall become effective no later than the first day of the first calendar month beginning after the date the plan receives the request for special enrollment.

(B) Notwithstanding subparagraph (A), in the case of a birth, adoption, or placement for adoption, coverage under the plan contract shall become effective on the date of birth, adoption, or placement for adoption.

(d) During the first 30 days after the effective date of the plan contract, the small employer shall have the option of changing coverage to a different plan contract offered by the same health care service plan. If a small employer notifies the plan of the change within the first 15 days of a month, coverage under the new plan contract shall become effective no later than the first day of the following month. If a small employer notifies the plan of the change after the 15th day of a month, coverage under the new plan contract shall become effective no later than the first day of the second month following notification.

(e) All eligible employees and dependents listed on a small employer's completed application shall be covered on the effective date of the health benefit plan.

SEC. 250. Section 1358.18 of the Health and Safety Code is amended to read:

1358.18. In the interest of full and fair disclosure, and to ~~assure~~ *ensure* the availability of necessary consumer information to potential subscribers or enrollees not possessing a special knowledge of Medicare, health care service plans, or Medicare supplement contracts, an issuer shall comply with the following provisions:

(a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medi-Cal coverage, or another health insurance policy or certificate or plan contract in force or whether a Medicare supplement contract is intended to replace any other disability policy or certificate, or plan contract, presently in force. A supplementary application or other form to be signed by the applicant and solicitor containing those questions and statements may be used.

"(Statements)

(1) You do not need more than one Medicare supplement policy or contract.

(2) If you purchase this contract, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medi-Cal or Medicaid and may not need a Medicare supplement contract.

(4) If, after purchasing this contract, you become eligible for Medi-Cal, the benefits and premiums under your Medicare supplement contract can be suspended, if requested, during your entitlement to benefits under Medi-Cal or Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal or Medicaid. If you are no longer entitled to Medi-Cal or Medicaid, your suspended Medicare supplement contract or, if that is no longer available, a substantially equivalent contract, will be reinstituted if requested within 90 days of losing Medi-Cal or Medicaid eligibility. If the Medicare supplement contract provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your contract was suspended, the reinstituted contract will not have outpatient

prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(5) If you are eligible for, and have enrolled in, a Medicare supplement contract by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement contract can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement contract under these circumstances and later lose your employer or union-based group health plan, your suspended Medicare supplement contract or, if that is no longer available, a substantially equivalent contract, will be reinstituted if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement contract provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your contract was suspended, the reinstituted contract will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(6) Counseling services are available in this state to provide advice concerning your purchase of Medicare supplement coverage and concerning medical assistance through the Medi-Cal or Medicaid Program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB). Information regarding counseling services may be obtained from the California Department of Aging.

(Questions)

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance contract or that you had certain rights to buy such a contract, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. PLEASE ANSWER ALL QUESTIONS.

[Please mark Yes or No below with an “X.”]

To the best of your knowledge,

(1) (a) Did you turn 65 years of age in the last 6 months

Yes____ No____

(b) Did you enroll in Medicare Part B in the last 6 months
Yes____ No____
(c) If yes, what is the effective date _____
(2) Are you covered for medical assistance through California's Medi-Cal program
NOTE TO APPLICANT: If you have a share of cost under the Medi-Cal program, please answer NO to this question.
Yes____ No____
If yes,
(a) Will Medi-Cal pay your premiums for this Medicare supplement contract
Yes____ No____
(b) Do you receive benefits from Medi-Cal OTHER THAN payments toward your Medicare Part B premium
Yes____ No____
(3) (a) If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.
START __/__/__ END __/__/__
(b) If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement contract
Yes____ No____
(c) Was this your first time in this type of Medicare plan
Yes____ No____
(d) Did you drop a Medicare supplement contract to enroll in the Medicare plan
Yes____ No____
(4) (a) Do you have another Medicare supplement policy or certificate or contract in force
Yes____ No____
(b) If so, with what company, and what plan do you have [optional for Direct Mailers]
Yes____ No____
(c) If so, do you intend to replace your current Medicare supplement policy or certificate or contract with this contract
Yes____ No____

(5) Have you had coverage under any other health insurance within the past 63 days (For example, an employer, union, or individual plan)

Yes____ No____

(a) If so, with what companies and what kind of policy

_____

_____

_____

_____

(b) What are your dates of coverage under the other policy

START __/__/__ END __/__/__

(If you are still covered under the other policy, leave "END" blank)."

(b) Solicitors shall list any other health insurance policies or plan contracts they have sold to the applicant as follows:

(1) List policies and contracts sold that are still in force.

(2) List policies and contracts sold in the past five years that are no longer in force.

(c) An issuer issuing Medicare supplement contracts without a solicitor or solicitor firm (a direct response issuer) shall return to the applicant, upon delivery of the contract, a copy of the application or supplemental forms, signed by the applicant and acknowledged by the issuer.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, ~~any~~ *an* issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance for delivery of the Medicare supplement contract, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the contract the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by subdivision (d) for an issuer shall be provided in substantially the following form in no less than 12-point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE ADVANTAGE

(Company name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate an existing Medicare supplement policy or contract or Medicare Advantage plan and replace it with a contract to be issued by [Plan Name]. Your contract to be issued by [Plan Name] will provide 30 days within which you may decide without cost whether you desire to keep the contract. You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy or contract only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY PLAN, SOLICITOR, SOLICITOR FIRM, OR OTHER REPRESENTATIVE:

(1) I have reviewed your current medical or health coverage. To the best of my knowledge, the replacement of coverage involved in this transaction does not duplicate coverage or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your Medicare Advantage plan. The replacement contract is being purchased for the following reason (check one):

__ Additional benefits.

__ No change in benefits, but lower premiums or charges.

__ Fewer benefits and lower premiums or charges.

__ Plan has outpatient prescription drug coverage and applicant is enrolled in Medicare Part D.

__ Disenrollment from a Medicare Advantage plan. Reasons for disenrollment:

__ Other. (please specify) _____.

(2) If the issuer of the Medicare supplement contract being applied for does not impose, or is otherwise prohibited from imposing, preexisting condition limitations, please skip to statement 3 below. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new contract. This could result in denial or delay of a claim for benefits under the new contract, whereas a similar claim might have been payable under your present contract.

(3) State law provides that your replacement Medicare supplement contract may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The plan will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new coverage for similar benefits to the extent that time was spent (depleted) under the original contract.

(4) If you still wish to terminate your present policy or contract and replace it with new coverage, be certain to truthfully and completely answer any and all questions on the application concerning your medical and health history. Failure to include all material medical information on an application requesting that information may provide a basis for the plan to deny any future claims and to refund your prepaid or periodic payment as though your contract had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded.

(5) Do not cancel your present Medicare supplement coverage until you have received your new contract and are sure you want to keep it.

_____

(Signature of Solicitor, Solicitor Firm, or Other Representative)
[Typed Name and Address of Plan, Solicitor, or Solicitor Firm]

_____

(Applicant's Signature)

_____

(Date)

(f) The application form or other consumer information for persons eligible for Medicare and used by an issuer shall contain, as an attachment, a Medicare supplement buyer's guide in the form

approved by the director. The application or other consumer information, containing, as an attachment, the buyer's guide, shall be mailed or delivered to each applicant applying for that coverage at or before the time of application and, to establish compliance with this subdivision, the issuer shall obtain an acknowledgment of receipt of the attached buyer's guide from each applicant. No issuer shall make use of or otherwise disseminate any buyer's guide that does not accurately outline current Medicare supplement benefits. No issuer shall be required to provide more than one copy of the buyer's guide to any applicant.

(g) An issuer may comply with the requirement of this section in the case of group contracts by causing the subscriber (1) to disseminate copies of the disclosure form containing as an attachment the buyer's guide to all persons eligible under the group contract at the time those persons are offered the Medicare supplement plan, and (2) collecting and forwarding to the issuer an acknowledgment of receipt of the disclosure form containing, as an attachment, the buyer's guide from each enrollee.

(h) An issuer shall not require, request, or obtain health information as part of the application process for an applicant who is eligible for guaranteed issuance of, or open enrollment for, any Medicare supplement coverage pursuant to Section 1358.11 or 1358.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 1358.11 when the applicant is first enrolled in Medicare Part B. The application form shall include a clear and conspicuous statement that the applicant is not required to provide health information during a period where guaranteed issue or open enrollment applies, as specified in Section 1358.11 or 1358.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 1358.11 when the applicant is first enrolled in Medicare Part B, and shall inform the applicant of those periods of guaranteed issuance of Medicare supplement coverage. This subdivision ~~shall~~ *does* not prohibit an issuer from requiring proof of eligibility for a guaranteed issuance of Medicare supplement coverage.

SEC. 251. Section 1367.004 of the Health and Safety Code is amended to read:

1367.004. (a) A health care service plan that issues, sells, renews, or offers a specialized health care service plan contract covering dental services shall, no later than September 30, 2015,

and each year thereafter, file a report, which shall be known as the MLR annual report, with the department that is organized by market and product type and contains the same information required in the 2013 federal Medical Loss Ratio (MLR) Annual Reporting Form (CMS-10418).

(b) The MLR reporting year shall be for the calendar year during which dental coverage is provided by the plan. All terms used in the MLR annual report shall have the same meaning as used in the federal Public Health Service Act (42 U.S.C. Sec. 300gg-18), Part 158 (commencing with *Section* 158.101) of Title 45 of the Code of Federal Regulations, and Section 1367.003.

(c) If the director decides to conduct a financial examination, as described in Section 1382, because the director finds it necessary to verify the health care service plan's representations in the MLR annual report, the department shall provide the health care service plan with a notification 30 days before the commencement of the financial examination.

(d) The health care service plan shall have 30 days from the date of notification to electronically submit to the department all requested records, books, and papers specified in subdivision (a) of Section 1381. The director may extend the time for a health care service plan to comply with this subdivision upon a finding of good cause.

(e) The department shall make available to the public all of the data provided to the department pursuant to this section.

(f) This section does not apply to a health care service plan contract issued, sold, renewed, or offered for health care services or coverage provided in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code), the Access for Infants and Mothers Program (Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code), the California Major Risk Medical Insurance Program (Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code), or the Federal Temporary High Risk Insurance Pool (Part 6.6 (commencing with Section 12739.5) of Division 2 of the Insurance Code), to the extent consistent with the federal Patient Protection and Affordable Care Act (Public Law 111-148).

(g) It is the intent of the Legislature that the data reported pursuant to this section be considered by the Legislature in adopting a medical loss ratio standard for health care service plans that cover dental services that would take effect no later than January 1, 2018.

(h) Until January 1, 2018, the director may issue guidance to health care service plans subject to this section regarding compliance with this section. This 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 be effective only until the director adopts regulations pursuant to the Administrative Procedure Act. The department shall consult with the Department of Insurance in issuing guidance pursuant to this subdivision.

SEC. 252. Section 1367.035 of the Health and Safety Code is amended to read:

1367.035. (a) As part of the reports submitted to the department pursuant to subdivision (f) of Section 1367.03 and regulations adopted pursuant to that section, a health care service plan shall submit to the department, in a manner specified by the department, data regarding network adequacy, including, but not limited to, the following:

(1) Provider office location.

(2) Area of specialty.

(3) Hospitals where providers have admitting privileges, if any.

(4) Providers with open practices.

(5) The number of patients assigned to a primary care provider or, for providers who do not have assigned enrollees, information that demonstrates the capacity of primary care providers to be accessible and available to enrollees.

(6) Grievances regarding network adequacy and timely access that the health care service plan received during the preceding calendar year.

(b) A health care service plan that uses a network for its Medi-Cal managed care product line that is different from the network used for its other product lines shall submit the data required under subdivision (a) for its Medi-Cal managed care product line separately from the data submitted for its other product lines.

(c) A health care service plan that uses a network for its individual market product line that is different from the network used for its small group market product line shall submit the data required under subdivision (a) for its individual market product line separate from the data submitted for its small group market product line.

(d) The department shall review the data submitted pursuant to this section for compliance with this chapter.

(e) In submitting data under this section, a health care service plan that provides services to Medi-Cal beneficiaries pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions ~~Code,~~ *Code* shall provide the same data to the State Department of Health Care Services pursuant to Section 14456.3 of the Welfare and Institutions Code.

(f) In developing the format and requirements for reports, data, or other information provided by plans pursuant to subdivision (a), the department shall not create duplicate reporting requirements, but, instead, shall take into consideration all existing relevant reports, data, or other information provided by plans to the department. This subdivision does not limit the authority of the department to request additional information from the plan as deemed necessary to carry out and complete any enforcement action initiated under this chapter.

(g) If the department requests additional information or data to be reported pursuant to subdivision (a), which is different or in addition to the information required to be reported in paragraphs (1) to (6), inclusive, of subdivision (a), the department shall provide health care service plans notice of that change by November 1 of the year prior to the change.

(h) A health care service plan may include in the provider contract provisions requiring compliance with the reporting requirements of Section 1367.03 and this section.

SEC. 253. Section 1367.20 of the Health and Safety Code, as added by Section 2 of Chapter 68 of the Statutes of 1998, is repealed.

~~1367.20. Every health care service plan that provides prescription drug benefits and maintains one or more drug formularies shall provide to members of the public, upon request, a copy of the most current list of prescription drugs on the~~

~~formulary of the plan by major therapeutic category, with an indication of whether any drugs on the list are preferred over other listed drugs. If the health care service plan maintains more than one formulary, the plan shall notify the requester that a choice of formulary lists is available.~~

SEC. 254. Section 1367.25 of the Health and Safety Code is amended to read:

1367.25. (a) A group health care service plan contract, except for a specialized health care service plan contract, that is issued, amended, renewed, or delivered on or after January 1, 2000, through December 31, 2015, inclusive, and an individual health care service plan contract that is amended, renewed, or delivered on or after January 1, 2000, through December 31, 2015, inclusive, except for a specialized health care service plan contract, shall provide coverage for the following, under general terms and conditions applicable to all benefits:

(1) A health care service plan contract that provides coverage for outpatient prescription drug benefits shall include coverage for a variety of federal Food and Drug Administration ~~(FDA) approved~~ *(FDA)-approved* prescription contraceptive methods designated by the plan. In the event the patient's participating provider, acting within his or her scope of practice, determines that none of the methods designated by the plan is medically appropriate for the patient's medical or personal history, the plan shall also provide coverage for another ~~FDA approved,~~ *FDA-approved*, medically appropriate prescription contraceptive method prescribed by the patient's provider.

(2) Benefits for an enrollee under this subdivision shall be the same for an enrollee's covered spouse and covered nonspouse dependents.

(b) (1) A health care service plan contract, except for a specialized health care service plan contract, that is issued, amended, renewed, or delivered on or after January 1, 2016, shall provide coverage for all of the following services and contraceptive methods for women:

(A) Except as provided in subparagraphs (B) and (C) of paragraph (2), all FDA-approved contraceptive drugs, devices, and other products for women, including all FDA-approved contraceptive drugs, devices, and products available over the counter, as prescribed by the enrollee's provider.

(B) Voluntary sterilization procedures.

(C) Patient education and counseling on contraception.

(D) Followup services related to the drugs, devices, products, and procedures covered under this subdivision, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(2) (A) Except for a grandfathered health plan, a health care service plan subject to this subdivision shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to this subdivision. Cost sharing shall not be imposed on any Medi-Cal beneficiary.

(B) ~~Where~~ *If* the FDA has approved one or more therapeutic equivalents of a contraceptive drug, device, or product, a health care service plan is not required to cover all of those therapeutically equivalent versions in accordance with this subdivision, as long as at least one is covered without cost sharing in accordance with this subdivision.

(C) If a covered therapeutic equivalent of a drug, device, or product is not available, or is deemed medically inadvisable by the enrollee's provider, a health care service plan shall provide coverage, subject to a plan's utilization management procedures, for the prescribed contraceptive drug, device, or product without cost sharing. Any request by a contracting provider shall be responded to by the health care service plan in compliance with the Knox-Keene Health Care Service Plan Act of 1975, as set forth in this chapter and, as applicable, with the plan's Medi-Cal managed care contract.

(3) Except as otherwise authorized under this section, a health care service plan shall not impose any restrictions or delays on the coverage required under this subdivision.

(4) Benefits for an enrollee under this subdivision shall be the same for an enrollee's covered spouse and covered nonspouse dependents.

(5) For purposes of paragraphs (2) and (3) of this subdivision, "health care service plan" shall include Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Notwithstanding any other provision of this section, a religious employer may request a health care service plan contract without coverage for ~~FDA approved~~ *FDA-approved* contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, a health care service plan contract shall be provided without coverage for contraceptive methods.

(1) For purposes of this section, a "religious employer" is an entity for which each of the following is true:

(A) The inculcation of religious values is the purpose of the entity.

(B) The entity primarily employs persons who share the religious tenets of the entity.

(C) The entity serves primarily persons who share the religious tenets of the entity.

(D) The entity is a nonprofit organization as described in Section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended.

(2) Every religious employer that invokes the exemption provided under this section shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons.

(d) ~~Nothing in this~~ *This* section shall *not* be construed to exclude coverage for contraceptive supplies as prescribed by a provider, acting within his or her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

(e) ~~Nothing in this~~ *This* section shall *not* be construed to deny or restrict in any way the department's authority to ensure plan compliance with this chapter when a plan provides coverage for contraceptive drugs, devices, and products.

(f) ~~Nothing in this~~ *This* section shall *not* be construed to require an individual or group health care service plan contract to cover experimental or investigational treatments.

(g) For purposes of this section, the following definitions apply:

(1) "Grandfathered health plan" has the meaning set forth in Section 1251 of PPACA.

(2) "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the

federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any rules, regulations, or guidance issued thereunder.

(3) With respect to health care service plan contracts issued, amended, or renewed on or after January 1, 2016, "provider" means an individual who is certified or licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or an initiative act referred to in that division, or Division 2.5 (commencing with Section 1797) of this code.

SEC. 255. Section 1368.05 of the Health and Safety Code is amended to read:

1368.05. (a) (1) By enacting this section, which was originally enacted by Assembly Bill 922 (Chapter 552 of the Statutes of 2011), the Legislature recognizes that, because of the enactment of federal health care reform on March 23, 2010, and the implementation of various provisions by January 1, 2014, and the ongoing complexities of health care reform, it is appropriate to transfer the direct consumer assistance activities that were newly conferred on the Office of ~~the~~ Patient Advocate to the Department of Managed Health Care, and the Legislature recognizes that these new duties are necessary to be carried out by the department in partnership with community-based consumer assistance organizations for the purposes of serving California's health care consumers.

(2) In addition to maintaining the toll-free telephone number for the purpose of receiving complaints regarding health care service plans as required in Section 1368.02, the department and its contractors shall carry out these new responsibilities, which include assisting consumers in navigating private and public health care coverage and assisting consumers in determining the regulator that regulates the health care coverage of a particular consumer. In order to further assist in implementing health care reform, the department and its contractors shall also receive and respond to inquiries, complaints, and requests for assistance and education concerning health care coverage available in California.

(b) (1) The department shall annually contract with community-based organizations in furtherance of providing assistance to consumers as described in subdivision (a), as authorized by and in accordance with Section 19130 of the Government Code.

(2) These organizations shall be community-based nonprofit consumer assistance programs that shall include in their mission the assistance of, and duty to, health care consumers.

(3) Contracting consumer assistance organizations shall have experience in assisting consumers in navigating the local health care system, advising consumers regarding their health care coverage options, assisting consumers with problems in accessing health care services, and serving consumers with special needs, including, but not limited to, consumers with limited-English language proficiency, consumers requiring culturally competent services, low-income consumers, consumers with disabilities, consumers with low literacy rates, and consumers with multiple health conditions, including behavioral health. The organizations shall also have experience with, and the capacity for, collecting and reporting data regarding the consumers they assist, including demographic data, source of coverage, regulator, type of problem or issue, and resolution of complaints.

SEC. 256. Section 1371.36 of the Health and Safety Code, as added by Section 5 of Chapter 825 of the Statutes of 2000, is repealed.

~~1371.36. (a) A health care service plan shall not deny payment of a claim on the basis that the plan, medical group, independent practice association, or other contracting entity did not provide authorization for health care services that were provided in a licensed acute care hospital and that were related to services that were previously authorized, if all of the following conditions are met:~~

~~(1) It was medically necessary to provide the services at the time.~~

~~(2) The services were provided after the plan's normal business hours.~~

~~(3) The plan does not maintain a system that provides for the availability of a plan representative or an alternative means of contact through an electronic system, including voicemail or electronic mail, whereby the plan can respond to a request for authorization within 30 minutes of the time that a request was made.~~

~~(b) This section shall not apply to investigational or experimental therapies, or other noncovered services.~~

SEC. 257. Section 1371.37 of the Health and Safety Code, as added by Section 6 of Chapter 825 of the Statutes of 2000, is repealed.

~~1371.37. (a) A health care service plan is prohibited from engaging in an unfair payment pattern, as defined in this section.~~

~~(b) Consistent with subdivision (a) of Section 1371.39, the director may investigate a health care service plan to determine whether it has engaged in an unfair payment pattern.~~

~~(c) An "unfair payment pattern," as used in this section, means any of the following:~~

~~(1) Engaging in a demonstrable and unjust pattern, as defined by the department, of reviewing or processing complete and accurate claims that results in payment delays.~~

~~(2) Engaging in a demonstrable and unjust pattern, as defined by the department, of reducing the amount of payment or denying complete and accurate claims.~~

~~(3) Failing on a repeated basis to pay the uncontested portions of a claim within the timeframes specified in Section 1371, 1371.1, or 1371.35.~~

~~(4) Failing on a repeated basis to automatically include the interest due on claims pursuant to Section 1371.~~

~~(d) (1) Upon a final determination by the director that a health care service plan has engaged in an unfair payment pattern, the director may:~~

~~(A) Impose monetary penalties as permitted under this chapter.~~

~~(B) Require the health care service plan for a period of three years from the date of the director's determination, or for a shorter period prescribed by the director, to pay complete and accurate claims from the provider within a shorter period of time than that required by Section 1371. The provisions of this subparagraph shall not become operative until January 1, 2002.~~

~~(C) Include a claim for costs incurred by the department in any administrative or judicial action, including investigative expenses and the cost to monitor compliance by the plan.~~

~~(2) For any overpayment made by a health care service plan while subject to the provisions of paragraph (1), the provider shall remain liable to the plan for repayment pursuant to Section 1371.1.~~

~~(e) The enforcement remedies provided in this section are not exclusive and shall not limit or preclude the use of any otherwise available criminal, civil, or administrative remedy.~~

~~(f) The penalties set forth in this section shall not preclude, suspend, affect, or impact any other duty, right, responsibility, or obligation under a statute or under a contract between a health care service plan and a provider.~~

~~(g) A health care service plan may not delegate any statutory liability under this section.~~

~~(h) For the purposes of this section, "complete and accurate claim" has the same meaning as that provided in the regulations adopted by the department pursuant to subdivision (a) of Section 1371.38.~~

~~(i) On or before December 31, 2001, the department shall report to the Legislature and the Governor information regarding the development of the definition of "unjust pattern" as used in this section. This report shall include, but not be limited to, a description of the process used and a list of the parties involved in the department's development of this definition as well as recommendations for statutory adoption.~~

~~(j) The department shall make available upon request and on its web site, information regarding actions taken pursuant to this section, including a description of the activities that were the basis for the action.~~

SEC. 258. Section 1371.38 of the Health and Safety Code, as added by Section 7 of Chapter 825 of the Statutes of 2000, is repealed.

~~1371.38. (a) The department shall, on or before July 1, 2001, adopt regulations that ensure that plans have adopted a dispute resolution mechanism pursuant to subdivision (h) of Section 1367. The regulations shall require that any dispute resolution mechanism of a plan is fair, fast, and cost-effective for contracting and noncontracting providers and define the term "complete and accurate claim, including attachments and supplemental information or documentation."~~

~~(b) On or before December 31, 2001, the department shall report to the Governor and the Legislature its recommendations for any additional statutory requirements relating to plan and provider dispute resolution mechanisms.~~

SEC. 259. Section 1371.39 of the Health and Safety Code, as added by Section 8 of Chapter 825 of the Statutes of 2000, is repealed.

~~1371.39. (a) Providers may report to the department's Office of Plan and Provider Relations, either through the toll-free provider line (877-525-1295) or e-mail address (plans-providers@dmhc.ca.gov), instances in which the provider believes a plan is engaging in an unfair payment pattern.~~

~~(b) Plans may report to the department's Office of Plan and Provider Relations, either through the toll-free provider line (877-525-1295) or e-mail address (plans-providers@dmhc.ca.gov), instances in which the plan believes a provider is engaging in an unfair billing pattern.~~

~~(1) "Unfair billing pattern" means engaging in a demonstrable and unjust pattern of unbundling of claims, upcoding of claims, or other demonstrable and unjustified billing patterns, as defined by the department.~~

~~(2) The department shall convene appropriate state agencies to make recommendations by July 1, 2001, to the Legislature and the Governor for the purpose of developing a system for responding to unfair billing patterns as defined in this section. This section shall include a process by which information is made available to the public regarding actions taken against providers for unfair billing patterns and the activities that were the basis for the action.~~

~~(c) On or before December 31, 2001, the department shall report to the Legislature and the Governor information regarding the development of the definition of "unfair billing pattern" as used in this section. This report shall include, but not be limited to, a description of the process used and a list of the parties involved in the department's development of this definition as well as recommendations for statutory adoption.~~

SEC. 260. Section 1389.4 of the Health and Safety Code, as amended by Section 9 of Chapter 2 of the First Extraordinary Session of the Statutes of 2013, is amended to read:

1389.4. (a) A full service health care service plan that issues, renews, or amends individual health plan contracts shall be subject to this section.

(b) A health care service plan subject to this section shall have written policies, procedures, or underwriting guidelines establishing the criteria and process whereby the plan 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 ensure that the plan rating and underwriting

criteria comply with Sections 1365.5 and 1389.1 and all other applicable provisions of state and federal law.

(c) On or before June 1, 2006, and annually thereafter, every health care service plan shall file with the department a general description of the criteria, policies, procedures, or guidelines the plan uses for rating and underwriting decisions related to individual health plan contracts, 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 plan products for which they would be eligible. A plan may comply with this section by submitting to the department underwriting materials or resource guides provided to plan solicitors or solicitor firms, provided that those materials include the information required to be submitted by this section.

(d) Commencing January 1, 2011, the director 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) of Division 2 of the Insurance Code) and the federal temporary high risk pool established pursuant to Part 6.6 (commencing with Section 12739.5) of Division 2 of the Insurance Code. The director shall develop the information for the Internet Web site in consultation with the Department of Insurance to enhance the consistency of information provided to consumers. Information about individual health coverage 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~~ *This section does not* authorize public disclosure of company specific rating and underwriting criteria and practices submitted to the director.

(f) This section ~~shall~~ *does* not apply to a closed block of business, as defined in Section 1367.15.

(g) (1) This section shall become inoperative on November 1, 2013, or the 91st calendar day following the adjournment of the 2013–14 First Extraordinary Session, whichever date is later.

(2) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~ *300gg-91*), this section shall become operative 12 months after the date of that repeal or amendment.

SEC. 261. Section 1389.4 of the Health and Safety Code, as added by Section 10 of Chapter 2 of the First Extraordinary Session of the Statutes of 2013, is amended to read:

1389.4. (a) A full service health care service plan that renews individual grandfathered health benefit plans shall be subject to this section.

(b) A health care service plan subject to this section shall have written policies, procedures, or underwriting guidelines establishing the criteria and process whereby the plan makes its decision to provide or to deny coverage to dependents applying for an individual grandfathered health plan and sets the rate for that coverage. These guidelines, policies, or procedures shall ensure that the plan rating and underwriting criteria comply with Sections 1365.5 and 1389.1 and all other applicable provisions of state and federal law.

(c) On or before the June 1 next following the operative date of this section, and annually thereafter, every health care service plan shall file with the department a general description of the criteria, policies, procedures, or guidelines the plan uses for rating and underwriting decisions related to individual grandfathered health plans, 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 plan products for which they would be eligible. A plan may comply with this section by submitting to the department underwriting materials or resource guides provided to plan solicitors or solicitor firms, provided that those materials include the information required to be submitted by this section.

(d) ~~Nothing in this section shall~~ *This section does not* authorize public disclosure of company specific rating and underwriting criteria and practices submitted to the director.

(e) For purposes of this section, the following definitions shall apply:

(1) "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any rules, regulations, or guidance issued pursuant to that law.

(2) "Grandfathered health plan" has the same meaning as that term is defined in Section 1251 of PPACA.

(f) (1) This section shall become operative on November 1, 2013, or the 91st calendar day following the adjournment of the 2013–14 First Extraordinary Session, whichever date is later.

(2) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~ *300gg-91*), this section shall become inoperative 12 months after the date of that repeal or amendment.

SEC. 262. Section 1389.5 of the Health and Safety Code is amended to read:

1389.5. (a) This section ~~shall apply~~ *applies* to a health care service plan that provides coverage under an individual plan contract that is issued, amended, delivered, or renewed on or after January 1, 2007.

(b) At least once each year, the health care service plan shall permit an individual who has been covered for at least 18 months under an individual plan contract to transfer, without medical underwriting, to any other individual plan contract offered by that same health care service plan that provides equal or lesser benefits, as determined by the plan.

"Without medical underwriting" means that the health care service plan shall not decline to offer coverage to, or deny enrollment of, the individual or impose any preexisting condition exclusion on the individual who transfers to another individual plan contract pursuant to this section.

(c) The plan shall establish, for the purposes of subdivision (b), a ranking of the individual plan contracts it offers to individual

purchasers and post the ranking on its Internet Web site or make the ranking available upon request. The plan shall update the ranking whenever a new benefit design for individual purchasers is approved.

(d) The plan shall notify in writing all enrollees of the right to transfer to another individual plan contract pursuant to this section, at a minimum, when the plan changes the enrollee's premium rate. Posting this information on the plan's Internet Web site shall not constitute notice for purposes of this subdivision. The notice shall adequately inform enrollees of the transfer rights provided under this section, including information on the process to obtain details about the individual plan contracts available to that enrollee and advising that the enrollee may be unable to return to his or her current individual plan contract if the enrollee transfers to another individual plan contract.

(e) The requirements of this section ~~shall~~ *do* not apply to the following:

(1) A federally eligible defined individual, as defined in subdivision (c) of Section 1399.801, who is enrolled in an individual health benefit plan contract offered pursuant to Section 1366.35.

(2) An individual offered conversion coverage pursuant to Section 1373.6.

(3) Individual coverage under a specialized health care service plan contract.

(4) An individual enrolled in the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000) of Division 9 of Part 3 of the Welfare and Institutions Code.

(5) An individual enrolled in the Access for Infants and Mothers Program pursuant to Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(6) An individual enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code.

(f) It is the intent of the Legislature that individuals shall have more choice in their health coverage when health care service plans guarantee the right of an individual to transfer to another product based on the plan's own ranking system. The Legislature does not intend for the department to review or verify the plan's ranking for actuarial or other purposes.

(g) (1) This section shall become inoperative January 1, 2014, or the 91st calendar day following the adjournment of the 2013–14 First Extraordinary Session, whichever date is later.

(2) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~ *300gg-91*), this section shall become operative 12 months after the date of that repeal or amendment.

SEC. 263. Section 1389.7 of the Health and Safety Code, as amended by Section 12 of Chapter 2 of the First Extraordinary Session of the Statutes of 2013, is amended to read:

1389.7. (a) Every health care service plan that offers, issues, or renews individual plan contracts shall offer to any individual, who was covered under an individual plan contract that was rescinded, a new individual plan contract, without medical underwriting, that provides equal benefits. A health care service plan may also permit an individual, who was covered under an individual plan contract that was rescinded, to remain covered under that individual plan contract, with a revised premium rate that reflects the number of persons remaining on the plan contract.

(b) "Without medical underwriting" means that the health care service plan shall not decline to offer coverage to, or deny enrollment of, the individual or impose any preexisting condition exclusion on the individual who is issued a new individual plan contract or remains covered under an individual plan contract pursuant to this section.

(c) If a new individual plan contract is issued, the plan may revise the premium rate to reflect only the number of persons covered on the new individual plan contract.

(d) Notwithstanding subdivisions (a) and (b), if an individual was subject to a preexisting condition provision or a waiting or an affiliation period under the individual plan contract that was rescinded, the health care service plan may apply the same preexisting condition provision or waiting or affiliation period in the new individual plan contract. The time period in the new individual plan contract for the preexisting condition provision or waiting or affiliation period shall not be longer than the one in the individual plan contract that was rescinded and the health care

service plan shall credit any time that the individual was covered under the rescinded individual plan contract.

(e) The plan shall notify in writing all enrollees of the right to coverage under an individual plan contract pursuant to this section, at a minimum, when the plan rescinds the individual plan contract. The notice shall adequately inform enrollees of the right to coverage provided under this section.

(f) The plan shall provide 60 days for enrollees to accept the offered new individual plan contract and this contract shall be effective as of the effective date of the original plan contract and there shall be no lapse in coverage.

(g) This section ~~shall~~ *does* not apply to any individual whose information in the application for coverage and related communications led to the rescission.

(h) (1) This section shall become inoperative on January 1, 2014, or the 91st calendar day following the adjournment of the 2013–14 First Extraordinary Session, whichever date is later.

(2) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~ *300gg-91*), this section shall become operative 12 months after the date of that repeal or amendment.

SEC. 264. Section 1389.7 of the Health and Safety Code, as added by Section 13 of Chapter 2 of the First Extraordinary Session of the Statutes of 2013, is amended to read:

1389.7. (a) Every health care service plan that offers, issues, or renews individual plan contracts shall offer to any individual, who was covered by the plan under an individual plan contract that was rescinded, a new individual plan contract that provides the most equivalent benefits.

(b) A health care service plan that offers, issues, or renews individual plan contracts inside or outside the California Health Benefit Exchange may also permit an individual, who was covered by the plan under an individual plan contract that was rescinded, to remain covered under that individual plan contract, with a revised premium rate that reflects the number of persons remaining on the individual plan contract consistent with Section 1399.855.

(c) The plan shall notify in writing all enrollees of the right to coverage under an individual plan contract pursuant to this section,

at a minimum, when the plan rescinds the individual plan contract. The notice shall adequately inform enrollees of the right to coverage provided under this section.

(d) The plan shall provide 60 days for enrollees to accept the offered new individual plan contract under subdivision (a), and this contract shall be effective as of the effective date of the original plan contract and there shall be no lapse in coverage.

(e) This section ~~shall~~ *does* not apply to any individual whose information in the application for coverage and related communications led to the rescission.

(f) This section ~~shall apply~~ *applies* notwithstanding subdivision (a) or (d) of Section 1399.849.

(g) (1) This section shall become operative on January 1, 2014, or the 91st calendar day following the adjournment of the 2013–14 First Extraordinary Session, whichever date is later.

(2) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~ *300gg-91*), this section shall become inoperative 12 months after the date of that repeal or amendment.

SEC. 265. Section 1399.836 of the Health and Safety Code is amended to read:

1399.836. (a) This article shall become inoperative on January 1, 2014, or the 91st calendar day following the adjournment of the 2013–14 First Extraordinary Session, whichever date is later.

(b) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~ *300gg-91*), this article shall become operative 12 months after the date of that repeal or amendment.

SEC. 266. Section 1399.855 of the Health and Safety Code is amended to read:

1399.855. (a) With respect to individual health benefit plans for policy years on or after January 1, 2014, a health care service plan may use only the following characteristics of an individual, and any dependent thereof, for purposes of establishing the rate of the individual health benefit plan covering the individual and

the eligible dependents thereof, along with the health benefit plan selected by the individual:

(1) Age, pursuant to the age bands established by the United States Secretary of Health and Human Services and the age rating curve established by the federal Centers for Medicare and Medicaid Services pursuant to Section 2701(a)(3) of the federal Public Health Service Act (42 U.S.C. Sec. 300gg(a)(3)). Rates based on age shall be determined using the individual's age as of the date of the health benefit plan contract issuance or renewal, as applicable, and shall not vary by more than three to one for like individuals of different age who are 21 years of age or older as described in federal regulations adopted pursuant to Section 2701(a)(3) of the federal Public Health Service Act (42 U.S.C. Sec. 300gg(a)(3)).

(2) (A) Geographic region. The geographic regions for purposes of rating shall be the following:

(i) Region 1 shall consist of the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba.

(ii) Region 2 shall consist of the Counties of Marin, Napa, Solano, and Sonoma.

(iii) Region 3 shall consist of the Counties of El Dorado, Placer, Sacramento, and Yolo.

(iv) Region 4 shall consist of the City and County of San Francisco.

(v) Region 5 shall consist of the County of Contra Costa.

(vi) Region 6 shall consist of the County of Alameda.

(vii) Region 7 shall consist of the County of Santa Clara.

(viii) Region 8 shall consist of the County of San Mateo.

(ix) Region 9 shall consist of the Counties of Monterey, San Benito, and Santa Cruz.

(x) Region 10 shall consist of the Counties of Mariposa, Merced, San Joaquin, Stanislaus, and Tulare.

(xi) Region 11 shall consist of the Counties of Fresno, Kings, and Madera.

(xii) Region 12 shall consist of the Counties of San Luis Obispo, Santa Barbara, and Ventura.

(xiii) Region 13 shall consist of the Counties of Imperial, Inyo, and Mono.

(xiv) Region 14 shall consist of the County of Kern.

(xv) Region 15 shall consist of the ZIP Codes in the County of Los Angeles starting with 906 to 912, inclusive, 915, 917, 918, and 935.

(xvi) Region 16 shall consist of the ZIP Codes in the County of Los Angeles other than those identified in clause (xv).

(xvii) Region 17 shall consist of the Counties of Riverside and San Bernardino.

(xviii) Region 18 shall consist of the County of Orange.

(xix) Region 19 shall consist of the County of San Diego.

(B) No later than June 1, 2017, the department, in collaboration with the Exchange and the Department of Insurance, shall review the geographic rating regions specified in this paragraph and the impacts of those regions on the health care coverage market in California, and make a report to the appropriate policy committees of the Legislature.

(3) Whether the plan covers an individual or family, as described in PPACA.

(b) The rate for a health benefit plan subject to this section shall not vary by any factor not described in this section.

(c) With respect to family coverage under an individual health benefit plan, the rating variation permitted under paragraph (1) of subdivision (a) shall be applied based on the portion of the premium attributable to each family member covered under the plan. The total premium for family coverage shall be determined by summing the premiums for each individual family member. In determining the total premium for family members, premiums for no more than the three oldest family members who are under 21 years of age shall be taken into account.

(d) The rating period for rates subject to this section shall be from January 1 to December 31, inclusive.

(e) This section ~~shall~~ *does* not apply to an individual health benefit plan that is a grandfathered health plan.

(f) The requirement for submitting a report imposed under subparagraph (B) of paragraph (2) of subdivision (a) is inoperative on June 1, 2021, pursuant to Section 10231.5 of the Government Code.

(g) If Section 5000A of the Internal Revenue Code, as added by Section 1501 of PPACA, is repealed or amended to no longer apply to the individual market, as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-4~~

300gg-91), this section shall become inoperative 12 months after the date of that repeal or amendment.

SEC. 267. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent

or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components ~~shall be~~ *are* subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code.

~~Nothing in this section shall be construed to~~

This section does not prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a full-service adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a noncustodial adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(11) "Transitional shelter care facility" means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) "Transitional housing placement provider" means an organization licensed by the department pursuant to Section 1559.110 and Section 16522.1 of the Welfare and Institutions Code to provide transitional housing to foster children at least 16 years of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, to promote their transition to adulthood. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(13) "Group home" means a residential facility that provides 24-hour care and supervision to children, delivered at least in part by staff employed by the licensee in a structured environment. The care and supervision provided by a group home shall be nonmedical, except as otherwise permitted by law.

(14) "Runaway and homeless youth shelter" means a group home licensed by the department to operate a program pursuant to Section 1502.35 to provide voluntary, short-term, shelter and personal services to runaway youth or homeless youth, as defined in paragraph (2) of subdivision (a) of Section 1502.35.

(15) "Enhanced behavioral supports home" means a facility certified by the State Department of Developmental Services pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services as an adult residential facility or a group home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting. An enhanced behavioral supports home shall have a maximum capacity of four consumers, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(16) "Community crisis home" means a facility certified by the State Department of Developmental Services pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80), as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center service, in need of crisis

intervention services, and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center, Sonoma Developmental Center, ~~an acute general~~ *a general acute care* hospital, acute psychiatric hospital, an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5 of the Welfare and Institutions Code, or an out-of-state placement. A community crisis home shall have a maximum capacity of eight consumers, as defined in subdivision (a) of Section 1567.80, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(17) "Crisis nursery" means a facility licensed by the department to operate a program pursuant to Section 1516 to provide short-term care and supervision for children under six years of age who are voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 268. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility or certified family home.

(a) (1) Before and, as applicable, subsequent to issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 to the 2014–15 fiscal years, inclusive, ~~neither~~ the Department of Justice ~~nor~~ *and* the State Department of Social Services ~~may~~ *shall not* charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or ~~less~~ *fewer* children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If ~~no~~ criminal record information has *not* been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (1) of subdivision (b), has been convicted of a crime

other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as prescribed in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, or the issuance of a certificate of approval of a certified family home by a foster family agency, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the department may revoke the license, or require a foster family agency to revoke the certificate of approval, pursuant to Section 1550. The department may also suspend the license or require a foster family agency to suspend the certificate of approval pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on

this information and the individual makes a written request to the department 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 department shall retain a copy of the individual's written request and the response and date provided.

(b) (1) In addition to the applicant, this section shall be applicable to criminal record clearances and exemptions for the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility or certified family home.

(C) ~~Any~~ *A* person who provides client assistance in dressing, grooming, bathing, or personal hygiene. ~~Any~~ *A* nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility or certified family home. ~~Nothing in this~~ *This* paragraph ~~restricts~~ *does not restrict* the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility or certified family home pursuant to Section 1558.

(D) ~~Any~~ *A* staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as

determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a

person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensed or certified foster parent, who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the licensee or certified *foster* parent are not left alone with the foster children. However, the licensee or certified *foster* parent, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friend when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee or certified *foster* parent, acting as a reasonable and prudent parent, may allow the parent of the foster child's friend to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any licensed or certified foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a

facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) ~~Nothing in this~~ *This* subdivision ~~shall~~ *does not* prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record

information search, or comply with paragraph (1) of subdivision (h). These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If ~~no~~ criminal record information has *not* been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption from disqualification shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within

14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in subdivision (b) who are exempt from fingerprinting, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that subsequent to obtaining a criminal record clearance or exemption from disqualification pursuant to subdivision (g), the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption from disqualification pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption from disqualification pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption from disqualification is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this

paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day and shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption from disqualification on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption from disqualification pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption from disqualification pursuant to subdivision (g). The individual may seek an exemption from disqualification only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before and, as applicable, subsequent to issuing a license or certificate of approval to any person or persons to operate a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g). The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) who are not exempt from fingerprinting have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, certificate of approval, or presence shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) who is not exempt from fingerprinting is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the criminal record information until the conclusion of the trial.

(C) For purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) To the same extent required for federal funding, an applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b) who is not exempt from fingerprinting, shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the criminal records search required by subdivision (a).

(5) ~~Any~~ *A* person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse, or any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) Subsequent to initial licensure or certification, a person specified in subdivision (b) who is not exempt from fingerprinting

shall obtain both a California and Federal Bureau of Investigation criminal record clearance, or an exemption from disqualification pursuant to subdivision (g), prior to employment, residence, or initial presence in the foster family or certified family home. A foster family home licensee or foster family agency shall submit fingerprint images and related information of persons specified in subdivision (b) who are not exempt from fingerprinting to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (h). A foster family home licensee's or a foster family agency's failure to either prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g), or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family home licensee or the foster family agency pursuant to Section 1550. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding

criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services or other approving authority finds that the applicant, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than a minor traffic violation, the application or presence shall be denied, unless the director grants an exemption from disqualification pursuant to subdivision (g).

(8) If the State Department of Social Services or other approving authority finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption from disqualification pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a, of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from

granting a criminal record exemption pursuant to subdivision (g), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs

(3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause ~~shall~~ *does* not apply to foster care providers, including relative caregivers, nonrelated extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(C) ~~Under no circumstances shall an~~ *An* exemption *shall not* be granted pursuant to this subdivision to any foster care provider applicant if that applicant, or any other person specified in subdivision (b) in those homes, has a felony conviction for either of the following offenses:

(i) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subparagraph, a crime involving violence means a violent crime specified in clause (i) of subparagraph (A), or subparagraph (B).

(ii) A felony conviction, within the last five years, for physical assault, battery, or a drug- or alcohol-related offense.

(iii) This subparagraph ~~shall~~ *does* not apply to licenses or approvals wherein a caregiver was granted an exemption to a criminal conviction described in clause (i) or (ii) prior to the enactment of this subparagraph.

(iv) This subparagraph shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition for receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of three years

after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) The following ~~shall apply~~ *applies* to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following ~~shall apply:~~ *applies:*

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department, a county office with department-delegated licensing authority, or a county child welfare agency with criminal record clearance and

exemption authority, a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(5) (A) A county child welfare agency with authority to secure clearances pursuant to Section 16504.5 of the Welfare and Institutions Code and to grant exemptions pursuant to Section 361.4 of the Welfare and Institutions Code may accept a clearance or exemption from another county with criminal record and exemption authority pursuant to these sections.

(B) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by a county child welfare agency with criminal record clearance and exemption authority, the Department of Justice shall process a request from a county child welfare agency with criminal record and exemption authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the State Department of Social Services and the Department of Justice.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(*l*) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in

the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 269. The heading of Article 2.6 (commencing with Section 1528) of Chapter 3 of Division 2 of the Health and Safety Code is repealed.

~~Article 2.6. Foster Care for Children~~

SEC. 270. Section 1531.2 of the Health and Safety Code, as added by Section 2 of Chapter 993 of the Statutes of 1989, is amended and renumbered to read:

~~1531.2.~~

1531.18. A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency~~, as defined in Section 13244,~~ or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

SEC. 271. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) (1) (A) Except for foster family homes, every licensed community care facility ~~shall be~~ *is* subject to unannounced inspections by the department.

(B) Foster family homes shall be subject to announced inspections by the department, except that a foster family home shall be subject to unannounced inspections in response to a complaint, a plan of correction, or under any of the circumstances set forth in subparagraph (B) of paragraph (2).

(2) (A) The department may inspect these facilities as often as necessary to ensure the quality of care provided.

(B) The department shall conduct an annual unannounced inspection of a facility under any of the following circumstances:

(i) When a license is on probation.

(ii) When the terms of agreement in a facility compliance plan require an annual inspection.

(iii) When an accusation against a licensee is pending.

(iv) When a facility requires an annual inspection as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

(C) (i) The department shall conduct annual unannounced inspections of no less than 20 percent of facilities, except for foster family homes, not subject to an inspection under subparagraph (B).

(ii) The department shall conduct annual announced inspections of no less than 20 percent of foster family homes not subject to an inspection under subparagraph (B).

(iii) These inspections shall be conducted based on a random sampling methodology developed by the department.

(iv) If the total citations issued by the department to facilities exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an inspection under subparagraph (B). The department may request additional resources to increase the random sample by 10 percent.

(v) The department shall not inspect a licensed community care facility less often than once every five years.

(3) In order to facilitate direct contact with group home clients, the department may interview children who are clients of group homes at any public agency or private agency at which the client may be found, including, but not limited to, a juvenile hall, recreation or vocational program, or a public or nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that he or she has the right not to be interviewed and the right to have another adult present during the interview.

(4) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(5) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all

inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(b) (1) This section does not limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program in which a licensed community care facility is certifying compliance with licensing requirements.

(2) (A) A foster family agency shall conduct an announced inspection of a certified family home during the annual recertification described in Section 1506 in order to ensure that the certified family home meets all applicable licensing standards. A foster family agency may inspect a certified family home as often as necessary to ensure the quality of care provided.

(B) In addition to the inspections required pursuant to subparagraph (A), a foster family agency shall conduct an unannounced inspection of a certified family home under any of the following circumstances:

(i) When a certified family home is on probation.

(ii) When the terms of the agreement in a facility compliance plan require an annual inspection.

(iii) When an accusation against a certified family home is pending.

(iv) When a certified family home requires an annual inspection as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a certified family home by the department is no longer at the home.

(3) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the certified family home. The certified *foster* parent or prospective foster parent shall be afforded the due process provided pursuant to this chapter.

(4) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(5) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(6) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(7) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(8) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(9) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section or Section 1550, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(10) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of approval by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

SEC. 272. Section 1546.1 of the Health and Safety Code is amended to read:

1546.1. (a) (1) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of clients of community care facilities and to minimize the effects of transfer trauma that

accompany the abrupt transfer of clients by appointing a temporary manager to assume the operation of a facility that is found to be in a condition in which continued operation by the licensee or his or her representative presents a substantial probability of imminent danger of serious physical harm or death to the clients.

(2) A temporary manager appointed pursuant to this section shall assume the operation of the facility in order to bring it into compliance with the law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of clients should the facility be required to close. Upon a final decision and order of revocation of the license or a forfeiture by operation of law, the department shall immediately issue a provisional license to the appointed temporary manager. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a temporary manager shall automatically expire upon the termination of the temporary manager. The temporary manager shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties set forth in the written agreement between the department and the temporary manager. The temporary manager ~~shall~~ *does not* have ~~no~~ *the* right to appeal the expiration of the provisional license.

(b) For purposes of this section, "temporary manager" means the person, corporation, or other entity appointed temporarily by the department as a substitute facility licensee or administrator with authority to hire, terminate, reassign staff, obligate facility funds, alter facility procedures, and manage the facility to correct deficiencies identified in the facility's operation. The temporary manager ~~shall have~~ *has* the final authority to direct the care and supervision activities of any person associated with the facility, including superseding the authority of the licensee and the administrator.

(c) The director may appoint a temporary manager when it is determined that it is necessary to temporarily suspend any license of a community care facility pursuant to Section 1550.5 and any of the following circumstances exist:

(1) The immediate relocation of the clients is not feasible based on transfer trauma, lack of alternate placements, or other emergency considerations for the health and safety of the clients.

(2) The licensee is unwilling or unable to comply with the requirements of Section 1556 for the safe and orderly relocation of clients when ordered to do so by the department.

(d) (1) Upon appointment, the temporary manager shall complete its application for a license to operate a community care facility and take all necessary steps and make best efforts to eliminate any substantial threat to the health and safety to clients or complete the transfer of clients to alternative placements pursuant to Section 1556. For purposes of a provisional license issued to a temporary manager, the licensee's existing fire safety clearance shall serve as the fire safety clearance for the temporary manager's provisional license.

(2) A person shall not impede the operation of a temporary manager. The temporary manager's access to, or possession of, the property shall not be interfered with during the term of the temporary manager appointment. There shall be an automatic stay for a 60-day period subsequent to the appointment of a temporary manager of any action that would interfere with the functioning of the facility, including, but not limited to, termination of utility services, attachments or setoffs of client trust funds, and repossession of equipment in the facility.

(e) (1) The appointment of a temporary manager shall be immediately effective and shall continue for a period not to exceed 60 days unless otherwise extended in accordance with paragraph (2) of subdivision (h) at the discretion of the department or otherwise terminated earlier by any of the following events:

(A) The temporary manager notifies the department, and the department verifies, that the facility meets state and, if applicable, federal standards for operation, and will be able to continue to maintain compliance with those standards after the termination of the appointment of the temporary manager.

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

(E) A hearing or court order ends the temporary manager appointment, including the appointment of a receiver under Section 1546.2.

(F) The appointment is terminated by the department or the temporary manager.

(2) The appointment of a temporary manager shall authorize the temporary manager to act pursuant to this section. The appointment shall be made pursuant to a written agreement between the temporary manager and the department that outlines the circumstances under which the temporary manager may expend funds. The department shall provide the licensee and administrator with a copy of the accusation to appoint a temporary manager at the time of appointment. The accusation shall notify the licensee of the licensee's right to petition the Office of Administrative Hearings for a hearing to contest the appointment of the temporary manager as described in subdivision (f) and shall provide the licensee with a form and appropriate information for the licensee's use in requesting a hearing.

(3) The director may rescind the appointment of a temporary manager and appoint a new temporary manager at any time that the director determines the temporary manager is not adhering to the conditions of the appointment.

(f) (1) The licensee of a community care facility may contest the appointment of the temporary manager by filing a petition for an order to terminate the appointment of the temporary manager with the Office of Administrative Hearings within 15 days from the date of mailing of the accusation to appoint a temporary manager under subdivision (e). On the same day ~~as~~ the petition is filed with the Office of Administrative Hearings, the licensee shall serve a copy of the petition to the office of the director.

(2) Upon receipt of a petition under paragraph (1), the Office of Administrative Hearings shall set a hearing date and time within 10 business days of the receipt of the petition. The office shall promptly notify the licensee and the department of the date, time, and place of the hearing. The office shall assign the case to an administrative law judge. At the hearing, relevant evidence may be presented pursuant to Section 11513 of the Government Code. The administrative law judge shall issue a written decision on the petition within 10 business days of the conclusion of the hearing. The 10-day time period for holding the hearing and for rendering a decision may be extended by the written agreement of the parties.

(3) The administrative law judge shall uphold the appointment of the temporary manager if the department proves, by a preponderance of the evidence, that the circumstances specified in subdivision (c) applied to the facility at the time of the

appointment. The administrative law judge shall order the termination of the temporary manager if the burden of proof is not satisfied.

(4) The decision of the administrative law judge is subject to judicial review as provided in Section 1094.5 of the Code of Civil Procedure by the superior court of the county where the facility is located. This review may be requested by the licensee of the facility or the department by filing a petition seeking relief from the order. The petition may also request the issuance of temporary injunctive relief pending the decision on the petition. The superior court shall hold a hearing within 10 business days of the filing of the petition and shall issue a decision on the petition within 10 days of the hearing. The department may be represented by legal counsel within the department for purposes of court proceedings authorized under this section.

(g) If the licensee of the community care facility does not protest the appointment or does not prevail at either the administrative hearing under paragraph (2) of subdivision (f) or the superior court hearing under paragraph (4) of subdivision (f), the temporary manager shall continue in accordance with subdivision (e).

(h) (1) If the licensee of the community care facility petitions the Office of Administrative Hearings pursuant to subdivision (f), the appointment of the temporary manager by the director pursuant to this section shall continue until it is terminated by the administrative law judge or by the superior court, or it shall continue until the conditions of subdivision (e) are satisfied, whichever is earlier.

(2) At any time during the appointment of the temporary manager, the director may request an extension of the appointment by filing a petition for hearing with the Office of Administrative Hearings and serving a copy of the petition on the licensee. The office shall proceed as specified in paragraph (2) of subdivision (f). The administrative law judge may extend the appointment of the temporary manager an additional 60 days upon a showing by the department that the conditions specified in subdivision (c) continue to exist.

(3) The licensee or the department may request review of the administrative law judge's decision on the extension as provided in paragraph (4) of subdivision (f).

(i) The temporary manager appointed pursuant to this section shall meet the following qualifications:

(1) Be qualified to oversee correction of deficiencies on the basis of experience and education.

(2) Not be the subject of any pending actions by the department or any other state agency nor have ever been excluded from a department licensed facility or had a license or certification suspended or revoked by an administrative action by the department or any other state agency.

(3) ~~Have no~~ *Not have a* financial ownership interest in the facility and *not* have ~~no~~ *a* member of his or her immediate family who has a financial ownership interest in the facility.

(4) Not currently serve, or within the past two years have served, as a member of the staff of the facility.

(j) Payment of the costs of the temporary manager shall comply with the following requirements:

(1) Upon agreement with the licensee, the costs of the temporary manager and any other expenses in connection with the temporary management shall be paid directly by the facility while the temporary manager is assigned to that facility. Failure of the licensee to agree to the payment of those costs may result in the payment of the costs by the department and subsequent required reimbursement ~~of~~ *to* the department by the licensee pursuant to this section.

(2) Direct costs of the temporary manager shall be equivalent to the sum of the following:

(A) The prevailing fee paid by licensees for positions of the same type in the facility's geographic area.

(B) Additional costs that reasonably would have been incurred by the licensee if the licensee and the temporary manager had been in an employment relationship.

(C) Any other reasonable costs incurred by the temporary manager in furnishing services pursuant to this section.

(3) ~~May~~ *Direct costs may* exceed the amount specified in paragraph (2) if the department is otherwise unable to attract a qualified temporary manager.

(k) (1) The responsibilities of the temporary manager may include, but are not limited to, the following:

(A) Paying wages to staff. The temporary manager shall have the full power to hire, direct, manage, and discharge employees

of the facility, subject to any contractual rights they may have. The temporary manager shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of clients and compliance with the law.

(B) Preserving client funds. The temporary manager shall be entitled to, and shall take possession of, all property or assets of clients that are in the possession of the licensee or administrator of the facility. The temporary manager shall preserve all property, assets, and records of clients of which the temporary manager takes possession.

(C) Contracting for outside services as may be needed for the operation of the facility. Any contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the director.

(D) Paying commercial creditors of the facility to the extent required to operate the facility. The temporary manager shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building, but only to the extent of payments that, in the case of a rental agreement, are for the use of the property during the period of the temporary management, or that, in the case of a purchase agreement, come due during the period of the temporary management.

(E) Doing all things necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The temporary manager shall take action as is reasonably necessary to protect or conserve the assets or property of which the temporary manager takes possession and may use those assets or property only in the performance of the powers and duties set out in this section.

(2) Expenditures by the temporary manager in excess of five thousand dollars ($5,000) shall be approved by the director. Total encumbrances and expenditures by the temporary manager for the duration of the temporary management shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(3) The temporary manager shall make no capital improvements to the facility in excess of five thousand dollars ($5,000) without the approval of the director.

(*l*) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section ~~697.510)~~ *697.010)* of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(2) For purposes of this section, "entity related to the licensee" means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which a person who was obligated to disclose information under Section 1520 possesses an interest that would also require disclosure pursuant to Section 1520.

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of clients under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of clients handled by the department if the licensee fails to comply with the relocation requirements of Section 1556 when required by the department to do so. If the licensee

fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(n) The department may use funds from the emergency client contingency account pursuant to Section 1546 when needed to supplement the operation of the facility or the transfer of clients under the control of the temporary manager appointed under this section if facility revenues are unavailable or exhausted when needed. Pursuant to subdivision (*l*), the licensee shall be required to reimburse the department for any funds used from the emergency client contingency account during the period of control of the temporary manager and any incurred costs of collection.

(o) This section does not apply to a residential facility that serves six or fewer persons and is also the principal residence of the licensee.

(p) Notwithstanding any other provision of law, the temporary manager shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(q) All governmental immunities otherwise applicable to the state shall also apply to the state in the use of a temporary manager in the operation of a facility pursuant to this section.

(r) A licensee shall not be liable for any occurrences during the temporary management under this section except to the extent that the occurrences are the result of the licensee's conduct.

(s) The department may adopt regulations for the administration of this section.

SEC. 273. Section 1546.2 of the Health and Safety Code is amended to read:

1546.2. (a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of community care facilities and to minimize the effects of transfer trauma that accompany the abrupt transfer of clients through a system whereby

the department may apply for a court order appointing a receiver to temporarily operate a community care facility. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the clients' health and safety. The receivership is intended to protect the clients in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of clients should the facility be required to close.

(b) (1) Whenever circumstances exist indicating that continued management of a community care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the clients, or the facility is closing or intends to terminate operation as a community care facility and adequate arrangements for *the* relocation of clients have not been made at least 30 days prior to the closing or termination, the director may petition the superior court for the county in which the community care facility is located for an order appointing a receiver to temporarily operate the community care facility in accordance with this section.

(2) The petition shall allege the facts upon which the action is based and shall be supported by an affidavit of the director. A copy of the petition and ~~affidavits,~~ *affidavit,* together with an order to appear and show cause why temporary authority to operate the community care facility should not be vested in a receiver pursuant to this section, shall be delivered to the licensee, administrator, or a responsible person at the facility to the attention of the licensee and administrator. The order shall specify a hearing date, which shall be not less than 10, nor more than 15, days following delivery of the petition and order upon the licensee, except that the court may shorten or lengthen the time upon a showing of just cause.

(c) (1) If the director files a petition pursuant to subdivision (b) for appointment of a receiver to operate a community care facility, in accordance with Section 564 of the Code of Civil Procedure, the director may also petition the court, in accordance with Section 527 of the Code of Civil Procedure, for an order appointing a temporary receiver. A temporary receiver appointed by the court pursuant to this subdivision shall serve until the court has made a final determination on the petition for appointment of a receiver

filed pursuant to subdivision (b). A receiver appointed pursuant to this subdivision shall have the same powers and duties as a receiver would have if appointed pursuant to subdivision (b). Upon the director filing a petition for a receiver, the receiver shall complete its application for a provisional license to operate a community care facility. For purposes of a provisional license issued to a receiver, the licensee's existing fire safety clearance shall serve as the fire safety clearance for the receiver's provisional license.

(2) At the time of the hearing, the department shall advise the licensee of the name of the proposed receiver. The receiver shall be a certified community care facility administrator or other responsible person or entity, as determined by the court, from a list of qualified receivers established by the department, and, if need be, with input from providers of residential care and consumer representatives. Persons appearing on the list shall have experience in the delivery of care services to clients of community care facilities, and, if feasible, shall have experience with the operation of a community care facility, shall not be the subject of any pending actions by the department or any other state agency, and shall not have ever been excluded from a department licensed facility nor have had a license or certification suspended or revoked by an administrative action by the department or any other state agency. The receivers shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

(3) If at the conclusion of the hearing, which may include oral testimony and cross-examination at the option of any party, the court determines that adequate grounds exist for the appointment of a receiver and that there is no other reasonably available remedy to protect the clients, the court may issue an order appointing a receiver to temporarily operate the community care facility and enjoining the licensee from interfering with the receiver in the conduct of his or her duties. In these proceedings, the court shall make written findings of fact and conclusions of law and shall require an appropriate bond to be filed by the receiver and paid for by the licensee. The bond shall be in an amount necessary to protect the licensee in the event of any failure on the part of the

receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

(4) The court may permit the licensee to participate in the continued operation of the facility during the pendency of any receivership ordered pursuant to this section and shall issue an order detailing the nature and scope of participation.

(5) Failure of the licensee to appear at the hearing on the petition shall constitute an admission of all factual allegations contained in the petition for purposes of these proceedings only.

(6) The licensee shall receive notice and a copy of the application each time the receiver applies to the court or the department for instructions regarding his or her duties under this section, when an accounting pursuant to subdivision (i) is submitted, and when any other report otherwise required under this section is submitted. The licensee shall have an opportunity to present objections or otherwise participate in those proceedings.

(d) A person shall not impede the operation of a receivership created under this section. The receiver's access to, or possession of, the property shall not be interfered with during the term of the receivership. There shall be an automatic stay for a 60-day period subsequent to the appointment of a receiver of any action that would interfere with the functioning of the facility, including, but not limited to, cancellation of insurance policies executed by the licensees, termination of utility services, attachments or setoffs of client trust funds and working capital accounts, and repossession of equipment in the facility.

(e) When a receiver is appointed, the licensee may, at the discretion of the court, be divested of possession and control of the facility in favor of the receiver. If the court divests the licensee of possession and control of the facility in favor of the receiver, the department shall immediately issue a provisional license to the receiver. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a receiver shall automatically expire upon the termination of the receivership. The receiver shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties ordered by the court. The receiver shall have no right to appeal the expiration of the provisional license.

(f) A receiver appointed pursuant to this section:

(1) May exercise those powers and shall perform those duties ordered by the court, in addition to other duties provided by statute.

(2) Shall operate the facility in a manner that ensures the safety and adequate care for the clients.

(3) Shall have the same rights to possession of the building in which the facility is located, and of all goods and fixtures in the building at the time the petition for receivership is filed, as the licensee and administrator would have had if the receiver had not been appointed.

(4) May use the funds, building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to clients and to any other persons receiving services from the facility at the time the petition for receivership was filed.

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the following purposes in descending order of priority:

(A) To pay wages to staff. The receiver shall have full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of the clients and compliance with the law.

(B) To preserve client funds. The receiver shall be entitled to, and shall take, possession of all property or assets of clients that are in the possession of the licensee or operator of the facility. The receiver shall preserve all property, assets, and records of clients of which the receiver takes possession.

(C) To contract for outside services as may be needed for the operation of the community care facility. Any contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the court.

(D) To pay commercial creditors of the facility to the extent required to operate the facility. Except as provided in subdivision (h), the receiver shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property

during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

(E) To receive a salary, as approved by the court.

(F) To do all things necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The receiver shall take action as is reasonably necessary to protect or conserve the assets or property of which the receiver takes possession and may use those assets or property only in the performance of the powers and duties set out in this section and by order of the court.

(G) To ask the court for direction in the treatment of debts incurred prior to the appointment, if the licensee's debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the facility, or if payment of the debts will interfere with the purposes of receivership.

(g) (1) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver, rather than the licensee, for any goods or services provided by the community care facility after the date of the order. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a special account and shall use this account for all disbursements. Payment to the receiver pursuant to this subdivision shall discharge the obligation to the extent of the payment and shall not thereafter be the basis of a claim by the licensee or any other person. A client shall not be evicted nor may any contract or rights be forfeited or impaired, nor may any forfeiture be effected or liability increased, by reason of an omission to pay the licensee, operator, or other person a sum paid to the receiver pursuant to this subdivision.

(2) This section shall not be construed to suspend, during the temporary management by the receiver, any obligation of the licensee for payment of local, state, or federal taxes. A licensee shall not be held liable for acts or omissions of the receiver during the term of the temporary management.

(3) Upon petition of the receiver, the court may order immediate payment to the receiver for past services that have been rendered and billed, and the court may also order a sum not to exceed one month's advance payment to the receiver of any sums that may become payable under the Medi-Cal program.

(h) (1) A receiver shall not be required to honor a lease, mortgage, or secured transaction entered into by the licensee of the facility and another party if the court finds that the agreement between the parties was entered into for a collusive, fraudulent purpose or that the agreement is unrelated to the operation of the facility.

(2) A lease, mortgage, or secured transaction or an agreement unrelated to the operation of the facility that the receiver is permitted to dishonor pursuant to this subdivision shall only be subject to nonpayment by the receiver for the duration of the receivership, and the dishonoring of the lease, mortgage, security interest, or other agreement, to this extent, by the receiver shall not relieve the owner or operator of the facility from any liability for the full amount due under the lease, mortgage, security interest, or other agreement.

(3) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest that the receiver is permitted to ~~avoid~~ *dishonor* pursuant to paragraph (1), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

(4) Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the goods or real estate, subject to the lease or mortgage, which is brought by any person who received the notice required by this subdivision. However, payment by the receiver of the amount determined by the court to be reasonable shall not relieve the owner or operator of the facility from any liability for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or security interest.

(i) A monthly accounting shall be made by the receiver to the department of all moneys received and expended by the receiver on or before the 15th day of the following month or as ordered by the court, and the remainder of income over expenses for that month shall be returned to the licensee. A copy of the accounting

shall be provided to the licensee. The licensee or owner of the community care facility may petition the court for a determination as to the reasonableness of any expenditure made pursuant to paragraph (5) of subdivision (f).

(j) (1) The receiver shall be appointed for an initial period of not more than three months. The initial three-month period may be extended for additional periods not exceeding three months, as determined by the court pursuant to this section. At the end of one month, the receiver shall report to the court on its assessment of the probability that the community care facility will meet state standards for operation by the end of the initial three-month period and will continue to maintain compliance with those standards after termination of the receiver's management. If it appears that the facility cannot be brought into compliance with state standards within the initial three-month period, the court shall take appropriate action as follows:

(A) Extend the receiver's management for an additional three months if there is a substantial likelihood that the facility will meet state standards within that period and will maintain compliance with the standards after termination of the receiver's management. The receiver shall report to the court in writing upon the facility's progress at the end of six weeks of any extension ordered pursuant to this paragraph.

(B) Order the director to revoke or temporarily suspend, or both, the license pursuant to Article 5 (commencing with Section 1550) and extend the receiver's management for the period necessary to transfer clients in accordance with the transfer plan, but for not more than three months from the date of initial appointment of a receiver, or 14 days, whichever is greater. An extension of an additional three months may be granted if deemed necessary by the court.

(2) If it appears at the end of six weeks of an extension ordered pursuant to subparagraph (A) of paragraph (1) that the facility cannot be brought into compliance with state standards for operation or that it will not maintain compliance with those standards after the receiver's management is terminated, the court shall take appropriate action as specified in subparagraph (B) of paragraph (1).

(3) In evaluating the probability that a community care facility will maintain compliance with state standards of operation after

the termination of receiver management ordered by the court, the court shall consider at least the following factors:

(A) The duration, frequency, and severity of past violations in the facility.

(B) History of compliance in other care facilities operated by the proposed licensee.

(C) Efforts by the licensee to prevent and correct past violations.

(D) The financial ability of the licensee to operate in compliance with state standards.

(E) The recommendations and reports of the receiver.

(4) Management of a community care facility operated by a receiver pursuant to this section shall not be returned to the licensee, to any person related to the licensee, or to any person who served as a member of the facility's staff or who was employed by the licensee prior to the appointment of the receiver unless both of the following conditions are met:

(A) The department believes that it would be in the best interests of the clients of the facility, requests that the court return the operation of the facility to the former licensee, and provides clear and convincing evidence to the court that it is in the best interests of the facility's clients to take that action.

(B) The court finds that the licensee has fully cooperated with the department in the appointment and ongoing activities of a receiver appointed pursuant to this section, and, if applicable, any temporary manager appointed pursuant to Section 1546.1.

(5) The owner of the facility may at any time sell, lease, or close the facility, subject to the following provisions:

(A) If the owner closes the facility, or the sale or lease results in the closure of the facility, the court shall determine if a transfer plan is necessary. If the court so determines, the court shall adopt and implement a transfer plan consistent with the provisions of Section 1556.

(B) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a community care facility, the court and the department shall reevaluate any proposed transfer plan. If the court and the department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to those conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

(k) (1) The salary of the receiver shall be set by the court commensurate with community care facility industry standards, giving due consideration to the difficulty of the duties undertaken, and shall be paid from the revenue coming to the facility. If the revenue is insufficient to pay the salary in addition to other expenses of operating the facility, the receiver's salary shall be paid from the emergency client contingency account as provided in Section 1546. State advances of funds in excess of five thousand dollars ($5,000) shall be approved by the director. Total advances for encumbrances and expenditures shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section ~~697.510)~~ *697.010)* of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(3) For purposes of this subdivision, "entity related to the licensee" means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which any person who

was obligated to disclose information under Section 1520 possesses an interest that would also require disclosure pursuant to Section 1520.

(*l*) (1) This section does not impair the right of the owner of a community care facility to dispose of his or her property interests in the facility, but any facility operated by a receiver pursuant to this section shall remain subject to that administration until terminated by the court. The termination shall be promptly effectuated, provided that the interests of the clients have been safeguarded as determined by the court.

(2) This section does not limit the power of the court to appoint a receiver under any other applicable provision of law or to order any other remedy available under law.

(m) (1) Notwithstanding any other provision of law, the receiver shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(2) All governmental immunities otherwise applicable to the State of California shall also apply in the use of a receiver in the operation of a facility pursuant to this section.

(3) The licensee shall not be liable for any occurrences during the receivership except to the extent that the occurrences are the result of the licensee's conduct.

(n) The department may adopt regulations for the administration of this section. This section does not impair the authority of the department to temporarily suspend licenses under Section 1550.5 or to reach a voluntary agreement with the licensee for alternate management of a community care facility including the use of a temporary manager under Section 1546.1. This section does not authorize the department to interfere in a labor dispute.

(o) This section does not apply to a residential facility that serves six or fewer persons and is also the principal residence of the licensee.

(p) This section does not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

SEC. 274. Section 1562 of the Health and Safety Code is amended to read:

1562. (a) The director shall ensure that operators and staffs of community care facilities have appropriate training to provide the care and services for which a license or certificate is issued. ~~The~~

This section ~~shall~~ *does* not apply to a facility licensed as an Adult Residential Facility for Persons with Special Health Care Needs pursuant to Article 9 (commencing with Section 1567.50).

(b) It is the intent of the Legislature that children in foster care reside in the least restrictive, family-based settings that can meet their needs, and that group homes will be used only for short-term, specialized, and intensive treatment purposes that are consistent with a case plan that is determined by a child's best interests. Accordingly, the Legislature encourages the department to adopt policies, practices, and guidance that ensure that the education, qualification, and training requirements for child care staff in group homes are consistent with the intended role of group homes to provide short-term, specialized, and intensive treatment, with a particular focus on crisis intervention, behavioral stabilization, and other treatment-related goals, as well as the connections between those efforts and work toward permanency for children.

(c) (1) On and after October 1, 2014, each person employed as a facility manager or staff member of a group home, as defined in paragraph (13) of subdivision (a) of Section 1502, who provides direct care and supervision to children and youth residing in the group home shall be at least 21 years of age.

(2) Paragraph (1) ~~shall~~ *does* not apply to a facility manager or staff member employed at the group home before October 1, 2014.

(3) For purposes of this subdivision, "group home" does not include a runaway and homeless youth shelter.

SEC. 275. Section 1567.62 of the Health and Safety Code is amended to read:

1567.62. (a) Each enhanced behavioral supports home shall be licensed as an adult residential facility or a group home and certified by the State Department of Developmental Services.

(b) A certificate of program approval issued by the State Department of Developmental Services shall be a condition of licensure for the enhanced behavioral supports home by the State Department of Social Services.

(c) An enhanced behavioral supports home shall not be licensed by the State Department of Social Services until the certificate of program approval, granted by the State Department of Developmental Services, has been received.

(d) Placements of dual agency clients into enhanced behavioral supports homes that are licensed as group homes shall be subject

to the limitations on the duration of the placement set forth in Sections 319.2 and 319.3 of, and subparagraph (A) of paragraph (8) and subparagraph (A) of paragraph (9) of subdivision (e) of Section 361.2 of, the Welfare and Institutions Code.

(e) For the purpose of this article, dual agency clients are foster children in temporary custody of the child welfare agency under Section 319 of the Welfare and Institutions Code or under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code who are also either a consumer of regional center services, or who are receiving services under the California Early Intervention Services Act (Title 14 ~~(the age of commencing~~ *(commencing* with Section ~~45000)~~ *95000)* of the Government Code) but who are under three years of age and have not yet been determined to have a developmental disability.

(f) The State Department of Social Services ~~shall~~ *is* not ~~be~~ responsible for any of the following:

(1) Developing and approving a consumer's individual behavior supports plan in conjunction with the consumer's individual behavior supports team.

(2) (A) Oversight of any services that may be provided by a licensed health professional or licensed mental health professional to a consumer.

(B) Services provided by a licensed health or licensed mental health professional means services that may only be provided under the authority of the licensed health service provider's or licensed mental health service provider's professional license.

(g) Subdivision (f) ~~shall~~ *does* not limit the State Department of Social Services' ability to enforce Chapter 3 (commencing with Section 1500), and applicable regulations.

SEC. 276. Section 1567.69 of the Health and Safety Code is amended to read:

1567.69. ~~Nothing in this~~ *This* article ~~shall~~ *does not* interfere with the authority of the State Department of Social Services to temporarily suspend or revoke the license of an enhanced behavioral supports home pursuant to Section 1550 ~~of the Health and Safety Code~~.

SEC. 277. Section 1568.07 of the Health and Safety Code is amended to read:

1568.07. (a) (1) Within 90 days after a facility accepts its first resident for placement following its initial licensure, the

department shall conduct an unannounced inspection of the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

(2) The department may take appropriate remedial action as provided for in this chapter.

(b) (1) Every licensed residential care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Unannounced inspections shall be conducted at least annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection the department shall determine if the facility meets regulatory standards, including, but not limited to, providing residents with the appropriate level of care based on the facility's license, providing adequate staffing and services, updated resident records and assessments, and compliance with basic health and safety standards.

(3) If the department determines that a resident requires a higher level of care than the facility is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department. An assessment shall be conducted in consultation with the resident, the resident's physician and surgeon, and the resident's case manager, and shall reflect the desires of the resident, the resident's physician and surgeon, and the resident's case manager. The assessment also shall recognize that certain illnesses are episodic in nature and that the resident's need for a higher level of care may be temporary.

(4) The department shall notify the residential care facility in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(5) Reports on the results of each inspection or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and

services, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) ~~No~~ *A* licensee, or officer or employee of the licensee, shall *not* discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's facility, or against any employee of the licensee's facility, on the basis, or for the reason, that the person or employee or any other person ~~has~~ initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter or ~~has~~ initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

(e) ~~Any~~ *A* person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 278. Section 1568.0823 of the Health and Safety Code, as added by Section 3 of Chapter 888 of the Statutes of 1991, is amended and renumbered to read:

~~1568.0823.~~

1568.0824. ~~Any~~ *A* person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility for persons with a chronic, life-threatening illness of an impending and unannounced site visit to that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 279. Section 1569.335 of the Health and Safety Code is amended to read:

1569.335. (a) The department shall provide the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c)

of Section 9701 of the Welfare and Institutions Code, with a precautionary notification if the department begins to prepare to issue a temporary suspension or revocation of any license, so that the office may properly prepare to provide advocacy services if and when necessary.

(b) The department shall notify affected public placement agencies and the Office of the State Long-Term Care ~~Ombudsman,~~ *Ombudsman* whenever the department substantiates that a violation has occurred that poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license.

(c) (1) If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted.

(2) If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation that indicates that the case is still under appeal.

(3) The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

SEC. 280. Section 1569.481 of the Health and Safety Code is amended to read:

1569.481. (a) (1) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents by appointing a temporary manager to assume the operation of a facility that is found to be in a condition in which continued operation by the licensee or his or her representative presents a substantial probability of imminent danger of serious physical harm or death to the residents.

(2) A temporary manager appointed pursuant to this section shall assume the operation of the facility in order to bring it into compliance with the law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of residents should the facility be required to close. Upon a final decision and order of

revocation of the license, issuance of a temporary suspension, or a forfeiture by operation of law, the department shall immediately issue a provisional license to the appointed temporary manager. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a temporary manager shall automatically expire upon the termination of the temporary manager. The temporary manager shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties set forth in the written agreement between the department and the temporary manager. The temporary manager ~~shall~~ *does not* have ~~no~~ *the* right to appeal the expiration of the provisional license.

(b) For purposes of this section, "temporary manager" means the person, corporation, or other entity appointed temporarily by the department as a substitute facility licensee or administrator with authority to hire, terminate, reassign staff, obligate facility funds, alter facility procedures, and manage the facility to correct deficiencies identified in the facility's operation. The temporary manager ~~shall have~~ *has* the final authority to direct the care and supervision activities of any person associated with the facility, including superseding the authority of the licensee and the administrator.

(c) The director, in order to protect the residents of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, may appoint a temporary manager when any of the following circumstances exist:

(1) The director determines that it is necessary to temporarily suspend the license of a residential care facility for the elderly pursuant to Section 1569.50 and the immediate relocation of the residents is not feasible based on transfer trauma, lack of available alternative placements, or other emergency considerations for the health and safety of the residents.

(2) The licensee is unwilling or unable to comply with the requirements of Section 1569.525 or the requirements of Section 1569.682 regarding the safe and orderly relocation of residents when ordered to do so by the department or when otherwise required by law.

(3) The licensee has opted to secure a temporary manager pursuant to Section 1569.525.

(d) (1) Upon appointment, the temporary manager shall complete its application for a license to operate a residential care facility for the elderly and take all necessary steps and make best efforts to eliminate any substantial threat to the health and safety to residents or complete the transfer of residents to alternative placements pursuant to Section 1569.525 or 1569.682. For purposes of a provisional license issued to a temporary manager, the licensee's existing fire safety clearance shall serve as the fire safety clearance for the temporary manager's provisional license.

(2) A person shall not impede the operation of a temporary manager. The temporary manager's access to, or possession of, the property shall not be interfered with during the term of the temporary ~~manager~~ *manager's* appointment. There shall be an automatic stay for a 60-day period subsequent to the appointment of a temporary manager of any action that would interfere with the functioning of the facility, including, but not limited to, termination of utility services, attachments, or setoffs of resident trust funds, and repossession of equipment in the facility.

(e) (1) The appointment of a temporary manager shall be immediately effective and shall continue for a period not to exceed 60 days unless otherwise extended in accordance with paragraph (2) of subdivision (h) at the discretion of the department or as permitted by paragraph (2) of subdivision (d) of Section 1569.525, or unless otherwise terminated earlier by any of the following events:

(A) The temporary manager notifies the department, and the department verifies, that the facility meets state and, if applicable, federal standards for operation, and will be able to continue to maintain compliance with those standards after the termination of the appointment of the temporary manager.

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

(E) A hearing or court order ends the temporary manager appointment, including the appointment of a receiver under Section 1569.482.

(F) The appointment is terminated by the department or the temporary manager.

(2) The appointment of a temporary manager shall authorize the temporary manager to act pursuant to this section. The

appointment shall be made pursuant to a written agreement between the temporary manager and the department that outlines the circumstances under which the temporary manager may expend funds. The department shall provide the licensee and administrator with a copy of the accusation to appoint a temporary manager at the time of appointment. The accusation shall notify the licensee of the licensee's right to petition the Office of Administrative Hearings for a hearing to contest the appointment of the temporary manager as described in subdivision (f) and shall provide the licensee with a form and appropriate information for the licensee's use in requesting a hearing.

(3) The director may rescind the appointment of a temporary manager and appoint a new temporary manager at any time that the director determines the temporary manager is not adhering to the conditions of the appointment.

(f) (1) The licensee of a residential care facility for the elderly may contest the appointment of the temporary manager by filing a petition for an order to terminate the appointment of the temporary manager with the Office of Administrative Hearings within 15 days from the date of mailing of the accusation to appoint a temporary manager under subdivision (e). On the same day ~~as~~ the petition is filed with the Office of Administrative Hearings, the licensee shall serve a copy of the petition to the office of the director.

(2) Upon receipt of a petition under paragraph (1), the Office of Administrative Hearings shall set a hearing date and time within 10 business days of the receipt of the petition. The office shall promptly notify the licensee and the department of the date, time, and place of the hearing. The office shall assign the case to an administrative law judge. At the hearing, relevant evidence may be presented pursuant to Section 11513 of the Government Code. The administrative law judge shall issue a written decision on the petition within 10 business days of the conclusion of the hearing. The 10-day time period for holding the hearing and for rendering a decision may be extended by the written agreement of the parties.

(3) The administrative law judge shall uphold the appointment of the temporary manager if the department proves, by a preponderance of the evidence, that the circumstances specified in subdivision (c) applied to the facility at the time of the appointment. The administrative law judge shall order the

termination of the temporary manager if the burden of proof is not satisfied.

(4) The decision of the administrative law judge is subject to judicial review as provided in Section 1094.5 of the Code of Civil Procedure by the superior court of the county where the facility is located. This review may be requested by the licensee of the facility or the department by filing a petition seeking relief from the order. The petition may also request the issuance of temporary injunctive relief pending the decision on the petition. The superior court shall hold a hearing within 10 business days of the filing of the petition and shall issue a decision on the petition within 10 days of the hearing. The department may be represented by legal counsel within the department for purposes of court proceedings authorized under this section.

(g) If the licensee does not protest the appointment or does not prevail at either the administrative hearing under paragraph (2) of subdivision (f) or the superior court hearing under paragraph (4) of subdivision (f), the temporary manager shall continue in accordance with subdivision (e).

(h) (1) If the licensee petitions the Office of Administrative Hearings pursuant to subdivision (f), the appointment of the temporary manager by the director pursuant to this section shall continue until it is terminated by the administrative law judge or by the superior court, or it shall continue until the conditions of subdivision (e) are satisfied, whichever is earlier.

(2) At any time during the appointment of the temporary manager, the director may request an extension of the appointment by filing a petition for hearing with the Office of Administrative Hearings and serving a copy of the petition on the licensee. The office shall proceed as specified in paragraph (2) of subdivision (f). The administrative law judge may extend the appointment of the temporary manager an additional 60 days upon a showing by the department that the conditions specified in subdivision (c) continue to exist.

(3) The licensee or the department may request review of the administrative law judge's decision on the extension as provided in paragraph (4) of subdivision (f).

(i) The temporary manager appointed pursuant to this section shall meet the following qualifications:

(1) Be qualified to oversee correction of deficiencies in a residential care facility for the elderly on the basis of experience and education.

(2) Not be the subject of any pending actions by the department or any other state agency nor have ever been excluded from a department-licensed facility or had a license or certification suspended or revoked by an administrative action by the department or any other state agency.

(3) ~~Have no~~ *Not have a* financial ownership interest in the facility and *not* have ~~no~~ *a* member of his or her immediate family who has a financial ownership interest in the facility.

(4) Not currently serve, or within the past two years have served, as a member of the staff of the facility.

(j) Payment of the costs of the temporary manager shall comply with the following requirements:

(1) Upon agreement with the licensee, the costs of the temporary manager and any other expenses in connection with the temporary management shall be paid directly by the facility while the temporary manager is assigned to that facility. Failure of the licensee to agree to the payment of those costs may result in the payment of the costs by the department and subsequent required reimbursement of the department by the licensee pursuant to this section.

(2) Direct costs of the temporary manager shall be equivalent to the sum of the following:

(A) The prevailing fee paid by licensees for positions of the same type in the facility's geographic area.

(B) Additional costs that reasonably would have been incurred by the licensee if the licensee and the temporary manager had been in an employment relationship.

(C) ~~Any other~~ *Other* reasonable costs incurred by the temporary manager in furnishing services pursuant to this section.

(3) Direct costs may exceed the amount specified in paragraph (2) if the department is otherwise unable to find a qualified temporary manager.

(k) (1) The responsibilities of the temporary manager may include, but are not limited to, the following:

(A) Paying wages to staff. The temporary manager shall have the full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have.

The temporary manager shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of clients and compliance with the law.

(B) Preserving resident funds. The temporary manager shall be entitled to, and shall take possession of, all property or assets of residents that are in the possession of the licensee or administrator of the facility. The temporary manager shall preserve all property, assets, and records of residents of which the temporary manager takes possession.

(C) Contracting for outside services as may be needed for the operation of the facility. ~~Any~~ *A* contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the director.

(D) Paying commercial creditors of the facility to the extent required to operate the facility. The temporary manager shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building, but only to the extent of payments that, in the case of a rental agreement, are for the use of the property during the period of the temporary management, or that, in the case of a purchase agreement, come due during the period of the temporary management.

(E) Performing all acts that are necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The temporary manager shall take action as is reasonably necessary to protect or conserve the assets or property of which the temporary manager takes possession and may use those assets or property only in the performance of the powers and duties set forth in this section.

(2) Expenditures by the temporary manager in excess of five thousand dollars ($5,000) shall be approved by the director. Total encumbrances and expenditures by the temporary manager for the duration of the temporary management shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(3) The temporary manager shall not make capital improvements to the facility in excess of five thousand dollars ($5,000) without the approval of the director.

(*l*) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section ~~697.510)~~ *697.010)* of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(2) For purposes of this section, "entity related to the licensee" means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which a person who was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of residents under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of residents handled by the department if the licensee fails to comply with the relocation requirements of Section 1569.525 or 1569.682 when required by

the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(n) The department may use funds from the emergency resident contingency account pursuant to Section 1569.48 when needed to supplement the operation of the facility or the transfer of residents under the control of the temporary manager appointed under this section if facility revenues are unavailable or exhausted when needed. Pursuant to subdivision (*l*), the licensee shall be required to reimburse the department for any funds used from the emergency resident contingency account during the period of control of the temporary manager and any incurred costs of collection.

(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.

(p) Notwithstanding any other provision of law, the temporary manager shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(q) All governmental immunities otherwise applicable to the state shall also apply to the state in the use of a temporary manager in the operation of a facility pursuant to this section.

(r) A licensee ~~shall~~ *is* not ~~be~~ liable for any occurrences during the temporary management under this section except to the extent that the occurrences are the result of the licensee's conduct.

(s) The department may adopt regulations for the administration of this section.

SEC. 281. Section 1569.482 of the Health and Safety Code is amended to read:

1569.482. (a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents through a

system whereby the department may apply for a court order appointing a receiver to temporarily operate a residential care facility for the elderly. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the residents' health and safety. The receivership is intended to protect the residents in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of residents should the facility be required to close.

(b) (1) Whenever circumstances exist indicating that continued management of a residential care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the residents, or the facility is closing or intends to terminate operation as a residential care facility for the elderly and adequate arrangements for *the* relocation of residents have not been made at least 30 days prior to the closing or termination, the director may petition the superior court for the county in which the facility is located for an order appointing a receiver to temporarily operate the facility in accordance with this section.

(2) The petition shall allege the facts upon which the action is based and shall be supported by an affidavit of the director. A copy of the petition and ~~affidavits,~~ *affidavit* together with an order to appear and show cause why temporary authority to operate the residential care facility for the elderly should not be vested in a receiver pursuant to this section, shall be delivered to the licensee, administrator, or a responsible person at the facility to the attention of the licensee and administrator. The order shall specify a hearing date, which shall be not less than 10, nor more than 15, days following delivery of the petition and order upon the licensee, except that the court may shorten or lengthen the time upon a showing of just cause.

(c) (1) If the director files a petition pursuant to subdivision (b) for appointment of a receiver to operate a residential care facility for the elderly, in accordance with Section 564 of the Code of Civil Procedure, the director may also petition the court, in accordance with Section 527 of the Code of Civil Procedure, for an order appointing a temporary receiver. A temporary receiver appointed by the court pursuant to this subdivision shall serve until the court

has made a final determination on the petition for appointment of a receiver filed pursuant to subdivision (b). A receiver appointed pursuant to this subdivision shall have the same powers and duties as a receiver would have if appointed pursuant to subdivision (b). Upon the director filing a petition for a receiver, the receiver shall complete its application for a provisional license to operate a residential care facility for the elderly. For purposes of a provisional license issued to a receiver, the licensee's existing fire safety clearance shall serve as the fire safety clearance for the receiver's provisional license.

(2) At the time of the hearing, the department shall advise the licensee of the name of the proposed receiver. The receiver shall be a certified residential care facility for the elderly administrator or other responsible person or entity, as determined by the court, from a list of qualified receivers established by the department, and, if need be, with input from providers of residential care and consumer representatives. Persons appearing on the list shall have experience in the delivery of care services to clients of community care facilities, and, if feasible, shall have experience with the operation of a residential care facility for the elderly, shall not be the subject of any pending actions by the department or any other state agency, and shall not have ever been excluded from a department licensed facility nor have had a license or certification suspended or revoked by an administrative action by the department or any other state agency. The receivers shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

(3) If at the conclusion of the hearing, which may include oral testimony and cross-examination at the option of any party, the court determines that adequate grounds exist for the appointment of a receiver and that there is no other reasonably available remedy to protect the residents, the court may issue an order appointing a receiver to temporarily operate the residential care facility for the elderly and enjoining the licensee from interfering with the receiver in the conduct of his or her duties. In these proceedings, the court shall make written findings of fact and conclusions of law and shall require an appropriate bond to be filed by the receiver and paid for by the licensee. The bond shall be in an amount necessary

to protect the licensee in the event of any failure on the part of the receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

(4) The court may permit the licensee to participate in the continued operation of the facility during the pendency of any receivership ordered pursuant to this section and shall issue an order detailing the nature and scope of participation.

(5) Failure of the licensee to appear at the hearing on the petition shall constitute an admission of all factual allegations contained in the petition for purposes of these proceedings only.

(6) The licensee shall receive notice and a copy of the application each time the receiver applies to the court or the department for instructions regarding his or her duties under this section, when an accounting pursuant to subdivision (i) is submitted, and when any other report otherwise required under this section is submitted. The licensee shall have an opportunity to present objections or otherwise participate in those proceedings.

(d) A person shall not impede the operation of a receivership created under this section. The receiver's access to, or possession of, the property shall not be interfered with during the term of the receivership. There shall be an automatic stay for a 60-day period subsequent to the appointment of a receiver of any action that would interfere with the functioning of the facility, including, but not limited to, cancellation of insurance policies executed by the licensees, termination of utility services, attachments, or setoffs of resident trust funds and working capital accounts and repossession of equipment in the facility.

(e) When a receiver is appointed, the licensee may, at the discretion of the court, be divested of possession and control of the facility in favor of the receiver. If the court divests the licensee of possession and control of the facility in favor of the receiver, the department shall immediately issue a provisional license to the receiver. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a receiver shall automatically expire upon the termination of the receivership. The receiver shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties ordered by the court. The receiver shall have no right to appeal the expiration of the provisional license.

(f) A receiver appointed pursuant to this section:

(1) May exercise those powers and shall perform those duties ordered by the court, in addition to other duties provided by statute.

(2) Shall operate the facility in a manner that ensures the safety and adequate care for the residents.

(3) Shall have the same rights to possession of the building in which the facility is located, and of all goods and fixtures in the building at the time the petition for receivership is filed, as the licensee and administrator would have had if the receiver had not been appointed.

(4) May use the funds, building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed.

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the following purposes in descending order of priority:

(A) To pay wages to staff. The receiver shall have full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of the clients and compliance with the law.

(B) To preserve resident funds. The receiver shall be entitled to, and shall take, possession of all property or assets of residents that are in the possession of the licensee or operator of the facility. The receiver shall preserve all property, assets, and records of residents of which the receiver takes possession.

(C) To contract for outside services as may be needed for the operation of the residential care facility for the elderly. ~~Any~~ *A* contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the court.

(D) To pay commercial creditors of the facility to the extent required to operate the facility. Except as provided in subdivision (h), the receiver shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property

during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

(E) To receive a salary, as approved by the court.

(F) To do all things necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The receiver shall take action as is reasonably necessary to protect or conserve the assets or property of which the receiver takes possession and may use those assets or property only in the performance of the powers and duties set out in this section and by order of the court.

(G) To ask the court for direction in the treatment of debts incurred prior to the appointment, if the licensee's debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the facility, or if payment of the debts will interfere with the purposes of receivership.

(g) (1) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver, rather than the licensee, for any goods or services provided by the residential care facility for the elderly after the date of the order. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a special account and shall use this account for all disbursements. Payment to the receiver pursuant to this subdivision shall discharge the obligation to the extent of the payment and shall not thereafter be the basis of a claim by the licensee or any other person. A resident shall not be evicted nor may any contract or rights be forfeited or impaired, nor may any forfeiture be effected or liability increased, by reason of an omission to pay the licensee, operator, or other person a sum paid to the receiver pursuant to this subdivision.

(2) This section shall not be construed to suspend, during the temporary management by the receiver, any obligation of the licensee for payment of local, state, or federal taxes. A licensee shall not be held liable for acts or omissions of the receiver during the term of the temporary management.

(3) Upon petition of the receiver, the court may order immediate payment to the receiver for past services that have been rendered and billed, and the court may also order a sum not to exceed one month's advance payment to the receiver of any sums that may become payable under the Medi-Cal program.

(h) (1) A receiver shall not be required to honor a lease, mortgage, or secured transaction entered into by the licensee of the facility and another party if the court finds that the agreement between the parties was entered into for a collusive, fraudulent purpose or that the agreement is unrelated to the operation of the facility.

(2) A lease, mortgage, or secured transaction or an agreement unrelated to the operation of the facility that the receiver is permitted to dishonor pursuant to this subdivision shall only be subject to nonpayment by the receiver for the duration of the receivership, and the dishonoring of the lease, mortgage, security interest, or other agreement, to this extent, by the receiver shall not relieve the owner or operator of the facility from any liability for the full amount due under the lease, mortgage, security interest, or other agreement.

(3) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest that the receiver is permitted to ~~avoid~~ *dishonor* pursuant to paragraph (1), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

(4) Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the goods or real estate, subject to the lease or mortgage, which is brought by any person who received the notice required by this subdivision. However, payment by the receiver of the amount determined by the court to be reasonable ~~shall~~ *does* not relieve the owner or operator of the facility from any liability for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or security interest.

(i) A monthly accounting shall be made by the receiver to the department of all moneys received and expended by the receiver on or before the 15th day of the following month or as ordered by the court, and the remainder of income over expenses for that month shall be returned to the licensee. A copy of the accounting

shall be provided to the licensee. The licensee or owner of the residential care facility for the elderly may petition the court for a determination as to the reasonableness of any expenditure made pursuant to paragraph (5) of subdivision (f).

(j) (1) The receiver shall be appointed for an initial period of not more than three months. The initial three-month period may be extended for additional periods not exceeding three months, as determined by the court pursuant to this section. At the end of one month, the receiver shall report to the court on its assessment of the probability that the residential care facility for the elderly will meet state standards for operation by the end of the initial three-month period and will continue to maintain compliance with those standards after termination of the receiver's management. If it appears that the facility cannot be brought into compliance with state standards within the initial three-month period, the court shall take appropriate action as follows:

(A) Extend the receiver's management for an additional three months if there is a substantial likelihood that the facility will meet state standards within that period and will maintain compliance with the standards after termination of the receiver's management. The receiver shall report to the court in writing upon the facility's progress at the end of six weeks of any extension ordered pursuant to this paragraph.

(B) Order the director to revoke or temporarily suspend, or both, the license pursuant to Section 1569.50 and extend the receiver's management for the period necessary to transfer clients in accordance with the transfer plan, but for not more than three months from the date of initial appointment of a receiver, or 14 days, whichever is greater. An extension of an additional three months may be granted if deemed necessary by the court.

(2) If it appears at the end of six weeks of an extension ordered pursuant to subparagraph (A) of paragraph (1) that the facility cannot be brought into compliance with state standards for operation or that it will not maintain compliance with those standards after the receiver's management is terminated, the court shall take appropriate action as specified in subparagraph (B) of paragraph (1).

(3) In evaluating the probability that a residential care facility for the elderly will maintain compliance with state standards of

operation after the termination of receiver management ordered by the court, the court shall consider at least the following factors:

(A) The duration, frequency, and severity of past violations in the facility.

(B) History of compliance in other care facilities operated by the proposed licensee.

(C) Efforts by the licensee to prevent and correct past violations.

(D) The financial ability of the licensee to operate in compliance with state standards.

(E) The recommendations and reports of the receiver.

(4) Management of a residential care facility for the elderly operated by a receiver pursuant to this section shall not be returned to the licensee, to any person related to the licensee, or to any person who served as a member of the facility's staff or who was employed by the licensee prior to the appointment of the receiver unless both of the following conditions are met:

(A) The department believes that it would be in the best interests of the residents of the facility, requests that the court return the operation of the facility to the former licensee, and provides clear and convincing evidence to the court that it is in the best interests of the facility's residents to take that action.

(B) The court finds that the licensee has fully cooperated with the department in the appointment and ongoing activities of a receiver appointed pursuant to this section, and, if applicable, any temporary manager appointed pursuant to Section 1569.481.

(5) The owner of the facility may at any time sell, lease, or close the facility, subject to the following provisions:

(A) If the owner closes the facility, or the sale or lease results in the closure of the facility, the court shall determine if a transfer plan is necessary. If the court so determines, the court shall adopt and implement a transfer plan consistent with the provisions of Section 1569.682.

(B) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a residential care facility for the elderly, the court and the department shall reevaluate any proposed transfer plan. If the court and the department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to those conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

(k) (1) The salary of the receiver shall be set by the court commensurate with community care facility industry standards, giving due consideration to the difficulty of the duties undertaken, and shall be paid from the revenue coming to the facility. If the revenue is insufficient to pay the salary in addition to other expenses of operating the facility, the receiver's salary shall be paid from the emergency resident contingency account as provided in Section 1569.48. State advances of funds in excess of five thousand dollars ($5,000) shall be approved by the director. Total advances for encumbrances and expenditures shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. ~~Any reimbursement~~ *Reimbursement* received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section ~~697.510)~~ *697.010)* of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(3) For purposes of this subdivision, "entity related to the licensee" means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which any person who

was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(*l*) (1) This section does not impair the right of the owner of a residential care facility for the elderly to dispose of his or her property interests in the facility, but any facility operated by a receiver pursuant to this section shall remain subject to that administration until terminated by the court. The termination shall be promptly effectuated, provided that the interests of the residents have been safeguarded as determined by the court.

(2) This section does not limit the power of the court to appoint a receiver under any other applicable provision of law or to order any other remedy available under law.

(m) (1) Notwithstanding any other provision of law, the receiver shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(2) All governmental immunities otherwise applicable to the State of California shall also apply in the use of a receiver in the operation of a facility pursuant to this section.

(3) The licensee ~~shall~~ *is* not ~~be~~ liable for any occurrences during the receivership except to the extent that the occurrences are the result of the licensee's conduct.

(n) The department may adopt regulations for the administration of this section. This section does not impair the authority of the department to temporarily suspend licenses under Section 1569.50 or to reach a voluntary agreement with the licensee for alternate management of a community care facility including the use of a temporary manager under Section 1569.481. This section does not authorize the department to interfere in a labor dispute.

(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.

(p) This section does not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

SEC. 282. Section 1569.525 of the Health and Safety Code is amended to read:

1569.525. (a) If the director determines that it is necessary to temporarily suspend or to revoke any license of a residential care facility for the elderly in order to protect the residents or clients

of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety pursuant to Section 1569.50, the department shall make every effort to minimize trauma for the residents.

(b) (1) (A) After a decision is made to temporarily suspend or, upon an order, to revoke the license of a residential care facility for the elderly which is likely to result in closure of the facility, the department shall contact both of the following:

(i) The Office of the State Long-Term Care Ombudsman.

(ii) Any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly.

(B) The department shall work with these agencies, and the licensee if the director determines it to be appropriate, to locate alternative placement sites and to contact relatives or other persons responsible for the care of these residents, and to assist in the transfer of residents.

(2) The department shall use appropriately skilled professionals deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(3) The department shall require the licensee to prepare and submit to the licensing agency a written plan for relocation and compliance with the terms and conditions of the approved plans, and to provide other information as necessary for the enforcement of this section.

(c) Upon receipt of an order to temporarily suspend or revoke a license, the licensee shall be prohibited from accepting new residents or entering into admission agreements for new residents.

(d) Upon an order to temporarily suspend a license, the following shall apply:

(1) The licensee shall immediately provide written notice of the temporary suspension to the resident and initiate contact with the resident's responsible person, if applicable.

(2) The department may secure, or permit the licensee to secure, the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the facility. The temporary manager shall be appointed and assume operation of the facility in accordance with Section 1569.481.

(e) Upon an order to revoke a license following the temporary suspension of a license pursuant to Section 1569.50 that led to the transfer of all residents, the following ~~shall apply:~~ *applies:*

(1) The licensee shall provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation.

(2) The department shall permit the licensee to secure the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the residential care facility for the elderly for a period of at least 60 days, provided that all of the following conditions are met:

(A) A proposal is submitted to the department within 72 hours of the licensee's receipt of the department's order of revocation that includes both of the following:

(i) A completed "Application for a Community Care Facility or Residential Care Facility for the Elderly License" form (LIC 200), or similar form as determined by the department, signed and dated by both the licensee and the person or entity described in paragraph (2).

(ii) A copy of the executed agreement between the licensee and the person or entity described in paragraph (2) that delineates the roles and responsibilities of each party and specifies that the person or entity described in paragraph (2) shall have the full authority necessary to operate the facility, in compliance with all applicable laws and regulations, and without interference from the licensee.

(B) The person or entity described in paragraph (2) shall be currently licensed and in substantial compliance to operate a residential care facility for the elderly that is of comparable size or greater and has comparable programming to the facility. For purposes of this subparagraph, the following definitions apply:

(i) "Comparable programming" includes, but is not limited to, dementia care, hospice care, and care for residents with exempted prohibited health care conditions.

(ii) "Comparable size" means a facility capacity of 1 to 15 residents, 16 to 49 residents, or 50 or more residents.

(C) The person or entity described in paragraph (2) ~~shall~~ *is* not ~~be~~ subject to the application fee specified in Section 1569.185.

(D) If the department denies a proposal to secure the services of a person or entity pursuant to paragraph (2), this denial shall not be deemed a denial of a license application subject to the right to a hearing under Section 1569.22 and other procedural rights under Section 1569.51.

(f) (1) Notwithstanding Section 1569.651 or any other law, for paid preadmission fees, a resident who transfers from the facility due to the notice of temporary suspension or revocation of a license pursuant to this section is entitled to a refund in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of either notice of closure required by this section.

(B) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before either notice required by this section.

(C) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before either notice required by this section.

(D) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before either notice required by this section.

(2) ~~No~~ *A* preadmission fee refund is *not* required if preadmission fees were paid 25 months or more before either notice required by this section.

(3) The preadmission fee refund required by this paragraph shall be paid within 15 days of issuing either notice required by this section. In lieu of the refund, the resident may request that the licensee provide a credit toward the resident's monthly fee obligation in an amount equal to the preadmission fee refund due.

(4) If a resident transfers from the facility due to the revocation of a license, and the resident gives notice at least five days before leaving the facility, or if the transfer is due to a temporary suspension of the license order, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

(g) Within 24 hours after each ~~residence~~ *resident* who is transferring pursuant to these provisions ~~have~~ *has* left the facility,

the licensee that had his or her license temporarily suspended or revoked shall, based on information provided by the resident or the resident's responsible person, submit a final list of names and new locations of all residents to the department and the local ombudsman program.

(h) If at any point during or following a temporary suspension or revocation order of a license the director determines that there is a risk to the residents of a facility ~~from~~ *of* physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including, but not limited to, all of the following:

(1) Contact any local agency that may have placement or advocacy responsibility for the residents and work with those agencies to locate alternative placement sites.

(2) Contact the residents' relatives, legal representatives, authorized agents in a health care directive, or responsible parties.

(3) Assist in the transfer of residents, and, if necessary, arrange or coordinate transportation.

(4) Provide onsite evaluation of the residents and use any medical personnel deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(5) Arrange for or coordinate care and supervision.

(6) Arrange for the distribution of medications.

(7) Arrange for the preparation and service of meals and snacks.

(8) Arrange for the preparation of the residents' records and medications for transfer of each resident.

(9) Assist in any way necessary to facilitate a safe transfer of all residents.

(10) Check on the status of each transferred resident within 24 hours of transfer.

(i) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing those services. If the licensee fails to provide the services required in this section, the department shall request that the Attorney General's office, the city attorney's

office, or the local district attorney's office seek injunctive relief and damages.

(j) Notwithstanding Section 1569.49, a licensee who fails to comply with the requirements of this section shall be liable for civil penalties in the amount of five hundred dollars ($500) per violation per day for each day that the licensee is in violation of this section, until the violation has been corrected. The civil penalties shall be issued immediately following the written notice of violation.

(k) This section ~~shall~~ *does* not preclude the department from amending the effective date in the order of suspension or revocation of a license and closing the facility, or from pursuing any other available remedies if necessary to protect the health and safety of the residents in care.

SEC. 283. Section 1569.682 of the Health and Safety Code is amended to read:

1569.682. (a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department's regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:

(1) Prepare, for each resident, a relocation evaluation of the needs of that resident, which shall include both of the following:

(A) Recommendations on the type of facility that would meet the needs of the resident based on the current service plan.

(B) A list of facilities, within a 60-mile radius of the resident's current facility, that meet the resident's present needs.

(2) Provide each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:

(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.

(B) A copy of the resident's current service plan.

(C) The relocation evaluation.

(D) A list of referral agencies.

(E) The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.

(F) The contact information for the local long-term care ombudsman, including address and telephone number.

(3) Discuss the relocation evaluation with the resident and his or her legal representative within 30 days of issuing the notice of eviction.

(4) Submit a written report of any eviction to the licensing agency within five days.

(5) Upon issuing the written notice of eviction, a licensee shall not accept new residents or enter into new admission agreements.

(6) (A) For paid preadmission fees in excess of five hundred dollars ($500), the resident is entitled to a refund in accordance with all of the following:

(i) A 100-percent refund if preadmission fees were paid within six months of notice of eviction.

(ii) A 75-percent refund if preadmission fees were paid more than six months but not more than 12 months before notice of eviction.

(iii) A 50-percent refund if preadmission fees were paid more than 12 months but not more than 18 months before notice of eviction.

(iv) A 25-percent refund if preadmission fees were paid more than 18 months but less than 25 months before notice of eviction.

(B) No preadmission refund is required if preadmission fees were paid 25 months or more before the notice of eviction.

(C) The preadmission refund required by this paragraph shall be paid within 15 days of issuing the eviction notice. In lieu of the refund, the resident may request that the licensee provide a credit toward the resident's monthly fee obligation in an amount equal to the preadmission fee refund due.

(7) If the resident gives notice five days before leaving the facility, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

(8) Within 10 days of all residents having left the facility, the licensee, based on information provided by the resident or resident's legal representative, shall submit a final list of names and new locations of all residents to the department and the local ombudsman program.

(b) If seven or more residents of a residential care facility for the elderly will be transferred as a result of the forfeiture of a license or change in the use of the facility pursuant to subdivision (a), the licensee shall submit a proposed closure plan to the department for approval. The department shall approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:

(1) Upon submission of the closure plan, the licensee shall be prohibited from accepting new residents and entering into new admission agreements for new residents.

(2) The closure plan shall meet the requirements described in subdivision (a), and describe the staff available to assist in the transfers. The department's review shall include a determination as to whether the licensee's closure plan contains a relocation evaluation for each resident.

(3) Within 15 working days of receipt, the department shall approve or disapprove the closure plan prepared pursuant to this subdivision, and, if the department approves the plan, it shall become effective upon the date the department grants its written approval of the plan.

(4) If the department disapproves a closure plan, the licensee may resubmit an amended plan, which the department shall promptly either approve or disapprove, within 10 working days of receipt by the department of the amended plan. If the department fails to approve a closure plan, it shall inform the licensee, in writing, of the reasons for the disapproval of the plan.

(5) If the department fails to take action within 20 working days of receipt of either the original or the amended closure plan, the plan, or amended plan, as the case may be, shall be deemed approved.

(6) Until ~~such time that~~ the department has approved a licensee's closure plan, the facility shall not issue a notice of transfer or require any resident to transfer.

(7) Upon approval by the department, the licensee shall send a copy of the closure plan to the local ombudsman program.

(c) (1) If a licensee fails to comply with the requirements of this section, or if the director determines that it is necessary to protect the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482 when the director determines the immediate relocation of the residents is not feasible based on transfer trauma or other considerations such as the unavailability of alternative placements. The department shall contact any local agency that may have assessment, placement, protective, or advocacy responsibility for the residents, and shall work together with those agencies to locate alternative placement sites, contact relatives or other persons responsible for the care of these residents, provide onsite evaluation of the residents, and assist in the transfer of residents.

(2) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly ~~shall~~ *does* not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing the relocation services or the costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482. If the licensee fails to provide the relocation services required in this section, then the department may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, including restitution to the department of any costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482.

(d) A licensee who fails to comply with requirements of this section shall be liable for the imposition of civil penalties in the amount of one hundred dollars ($100) per violation per day for each day that the licensee is in violation of this section, until such time that the violation has been corrected. The civil penalties shall

be issued immediately following the written notice of violation. However, if the violation does not present an immediate or substantial threat to the health or safety of residents and the licensee corrects the violation within three days after receiving the notice of violation, the licensee shall not be liable for payment of any civil penalties pursuant to this subdivision related to the corrected violation.

(e) A licensee, on and after January 1, 2015, who fails to comply with this section and abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition to forfeiture of the license pursuant to Section 1569.19, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.

(f) A resident of a residential care facility for the elderly covered under this section may bring a civil action against any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates the rights of a resident, as set forth in this section. Any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates this section shall be responsible for the acts of the facility's employees and shall be liable for costs and attorney's fees. Any such residential care facility for the elderly may also be enjoined from permitting the violation to continue. The remedies specified in this section ~~shall be~~ *are* in addition to any other remedy provided by law.

(g) This section ~~shall~~ *does* not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

SEC. 284. Section 1597.58 of the Health and Safety Code, as added by Section 10 of Chapter 813 of the Statutes of 2014, is amended to read:

1597.58. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) nor more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation

warrants a higher penalty or an immediate civil penalty assessment or both, as determined by the department. In no event shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day per violation.

(c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56, and 1597.62, the department shall assess an immediate civil penalty of one hundred fifty dollars ($150) per day per violation for any of the following serious violations:

(1) Any violation that results in the injury, illness, or death of a child.

(2) Absence of supervision, including, but not limited to, a child left unattended, a child left alone with a person under 18 years of age, and lack of supervision resulting in a child wandering away.

(3) Accessible bodies of water.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.

(6) The presence of an excluded person on the premises.

(d) For a violation that the department determines resulted in the death of a child, the civil penalty shall be assessed as follows:

(1) Five thousand dollars ($5,000) for a small family day care home, as described in Section 1597.44.

(2) Seven thousand five hundred dollars ($7,500) for a large family day care home, as described in Section 1597.465.

(e) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:

(A) One thousand dollars ($1,000) for a small family day care home, as described in Section 1597.44.

(B) Two thousand dollars ($2,000) for a large family day care home, as described in Section 1597.465.

(2) For purposes of this subdivision, “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or

employee of a public or private school or other institution or agency.

(f) Prior to the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the director.

(g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56, and 1597.62, any family day care home that is cited for repeating the same violation of this chapter or Chapter 3.4 (commencing with Section 1596.70), within 12 months of the first violation, is subject to an immediate civil penalty assessment of up to one hundred fifty dollars ($150) and may be assessed up to fifty dollars ($50) for each day the violation continues until the deficiency is corrected.

(h) ~~Any~~ *A* family day care home that is assessed a civil penalty under subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate assessment of up to one hundred fifty dollars ($150) and may be assessed up to one hundred fifty dollars ($150) for each day the violation continues until the deficiency is corrected.

(i) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed family day care homes pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed family day care home providers, and to assist families with the identification, transportation, and enrollment of children to another family day care home when a family's family day care home's license is revoked or temporarily suspended.

(j) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A licensee ~~shall have the right to~~ *may* submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 10 days of receipt of the notice of a civil penalty assessment and shall provide

all supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. If the regional manager determines that the civil penalty was not assessed in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty. The licensee shall be notified in writing of the regional manager's decision within 60 days of the request to review the assessment of the civil penalty.

(3) The licensee may further appeal to the program administrator of the Community Care Licensing Division within 10 days of receipt of the notice of the regional manager's decision and shall provide all supporting documentation at that time. If the program administrator determines that the civil penalty was not assessed in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty. The licensee shall be notified in writing of the program administrator's decision within 60 days of the request to review the regional manager's decision.

(4) The licensee may further appeal to the deputy director of the Community Care Licensing Division within 10 days of receipt of the notice of the program director's decision and shall provide all supporting documentation at that time. If the deputy director determines that the civil penalty was not assessed in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty. The licensee shall be notified in writing of the deputy director's decision within 60 days of the request to review the program administrator's decision.

(5) Upon exhausting the deputy director review, a licensee may appeal a civil penalty assessed pursuant to subdivision (d) or (e) to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(6) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the

pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(k) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by the act that added this subdivision.

(*l*) This section shall become operative on July 1, 2015.

SEC. 285. Section 1635.1 of the Health and Safety Code is amended to read:

1635.1. (a) Except as provided in subdivision (b), every tissue bank operating in California on or after July 1, 1992, shall have a current and valid tissue bank license issued or renewed by the department pursuant to Section 1639.2 or 1639.3.

(b) This chapter ~~shall~~ *does* not apply to any of the following:

(1) The collection, processing, storage, or distribution of human whole blood or its derivatives by blood banks licensed pursuant to Chapter 4 (commencing with Section 1600) or any person exempt from licensure under that chapter.

(2) The collection, processing, storage, or distribution of tissue for autopsy, biopsy, training, education, or for other medical or scientific research or investigation, ~~where~~ *when* transplantation of the tissue is not intended or reasonably foreseeable.

(3) The collection of tissue by an individual physician and surgeon from his or her patient or the implantation of tissue by an individual physician and surgeon into his or her patient. This exemption shall not be interpreted to apply to any processing or storage of the tissue, except for the processing and storage of semen by an individual physician and surgeon when the semen was collected by that physician and surgeon from a semen donor or obtained by that physician and surgeon from a tissue bank licensed under this chapter.

(4) The collection, processing, storage, or distribution of fetal tissue or tissue derived from a human embryo or fetus.

(5) The collection, processing, storage, or distribution by an organ procurement organization (OPO), as defined in Section 485.302 of Title 42 of the Code of Federal Regulations, if the OPO, at the time of collection, processing, storage, and distribution of the organ, has been designated by the Secretary of Health and Human Services as an OPO, pursuant to Section 485.305 of Title 42 of the Code of Federal Regulations, and meets the requirements

of Sections 485.304 and 485.306 of Title 42 of the Code of Federal Regulations, as applicable.

(6) The storage of prepackaged, freeze-dried bone by a general acute care hospital.

(7) The storage of freeze-dried bone and dermis by any licensed dentist practicing in a lawful practice setting, ~~providing~~ *if* that the freeze-dried bone and dermis has been obtained from a licensed tissue ~~bank and~~ *bank*, is stored in strict accordance with a kit's package insert and any other manufacturer instructions and ~~guidelines~~ *guidelines*, and is used for the express purpose of implantation into a patient.

(8) The storage of a human cell, tissue, or cellular- or tissue-based product, as defined by the federal Food and Drug Administration, that is either a medical device approved pursuant to Section 510 or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360,, 360e) or that is a biologic product approved under Section 351 of the federal Public Health Service Act (42 U.S.C. Sec. 262) by a licensed physician or podiatrist acting within the scope and authority of his or her license and practicing in a lawful practice setting. The medical device or biologic product must have been obtained from a California licensed tissue bank, been stored in strict accordance with the device's or product's package insert and any other manufacturer instructions, and used solely for the express purpose of direct implantation into or application on the practitioner's own patient. In order to be eligible for the exemption in this paragraph, the entity or organization where the physician or podiatrist who is eligible for the exemption is practicing shall notify the department, in writing, that the practitioner is licensed and meets the requirements of this paragraph. The notification shall include all of the following:

(A) A list of all practitioners to whom the notice applies.

(B) Acknowledgment that each listed practitioner uses the medical device or biologic product in the scope and authority of his or her license and practice for the purposes of direct patient care as described in this paragraph.

(C) A statement that each listed practitioner agrees to strictly abide by the directions for storage in the device's or product's package insert and any other manufacturer instructions and guidelines.

(D) Acknowledgment by each practitioner that the medical device or biologic product shall not be resold or distributed.

SEC. 286. Section 1796.17 of the Health and Safety Code is amended to read:

1796.17. (a) Each home care organization shall be separately licensed. ~~Nothing in this~~ *This* chapter ~~shall~~ *does not* prevent a licensee from obtaining more than one home care organization license or obtaining a home care organization license in addition to other licenses issued by the department, or both.

(b) A home care organization ~~shall~~ *does* not include the following:

(1) A home health agency licensed under Chapter 8 (commencing with Section 1725).

(2) A hospice licensed under Chapter 8.5 (commencing with Section 1745).

(3) A health facility licensed under Chapter 2 (commencing with Section 1250).

(4) A person who performs services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

(5) A home medical device retail facility licensed under Section 111656.

(6) An organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by the organization are persons with developmental disabilities.

(7) An employment agency, as defined in Section 1812.5095 of the Civil Code, that procures, offers, refers, provides, or attempts

to provide an independent home care aide who provides home care services *to* clients.

(8) A community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), or a facility licensed pursuant to the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers, as described in Chapter 3.5 (commencing with Section 1596.90), family day care homes, as described in Chapter 3.6 (commencing with Section 1597.30), and employer-sponsored child care centers, as described in Chapter 3.65 (commencing with Section 1597.70).

(9) An alcoholism or drug abuse recovery or treatment facility as defined in Section 11834.02.

(10) A person providing services authorized pursuant to Section 2731 of the Business and Professions Code.

(11) A clinic licensed pursuant to Section 1204 or 1204.1.

(12) A nonrelative extended family member, as defined in Section 362.7 of the Welfare and Institutions Code.

(13) A facility providing home care services in which only Indian children who are eligible under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and which satisfies either of the following:

(A) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(B) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(14) Any other individual or entity providing services similar to those described in this chapter, as determined by the director.

(c) In the event of a conflict between this chapter and a provision listed in subdivision (b), the provision in subdivision (b) ~~shall control.~~ *controls.*

SEC. 287. Section 1796.23 of the Health and Safety Code is amended to read:

1796.23. (a) Each person initiating a background examination to be a registered home care aide shall submit his or her fingerprints

to the Department of Justice by electronic transmission in a manner approved by the department, unless exempt under subdivision (d). Each person initiating a background examination to be a registered home care aide shall also submit to the department a signed declaration under penalty of perjury regarding any prior criminal convictions pursuant to Section 1522 and a completed home care aide application.

(b) A law enforcement agency or other local agency authorized to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter. The fee revenues shall be deposited in the Fingerprint Fees Account.

(c) The Department of Justice shall use the fingerprints to search ~~the~~ state and Federal Bureau of Investigation criminal offender record information pursuant to Section 1522.

(d) A person who is a current licensee or employee in a facility licensed by the department, a certified foster parent, a certified administrator, or a registered TrustLine provider need not submit fingerprints to the department, and may transfer his or her current criminal record clearance or exemption pursuant to paragraph (1) of subdivision (h) of Section 1522. The person shall instead submit to the department, along with the person's registration application, a copy of the person's identification card described in Section 1796.22 and sign a declaration verifying the person's identity.

SEC. 288. Section 1796.25 of the Health and Safety Code is amended to read:

1796.25. (a) (1) If the department finds that the home care aide applicant or the registered home care aide has been convicted of a crime, other than a minor traffic violation, the department shall deny the home care aide application, or revoke the registered home care aide's registration unless the director grants an exemption pursuant to subdivision (g) of Section 1522.

(2) If the department finds that the home care aide applicant or registered home care aide has an arrest as described in subdivision (a) of Section 1522, the department may deny the registration application or registration renewal application, or revoke the registered home care aide's registration, if the home care aide or registered home care aide may pose a risk to the health and safety of any person who is or may become a client and the department complies with subdivision (e) of Section 1522.

(3) The department may deny the home care aide application or the renewal application of a registered home care aide, or revoke the home care aide registration, if the department discovers that it had previously revoked a license or certificate of approval to be a certified family home, a certified administrator, or a registered ~~TrustLine~~ *trustline* provider held by the home care aide applicant or registered home care aide, or that it had excluded the home care aide applicant or registered home care aide from a licensed facility.

(4) The department may deny the home care aide application or registered home care aide registration renewal ~~application,~~ *application* for placement or retention upon the home care aide ~~registry~~ *registry*, or revoke the registered home care aide's ~~registration~~ *registration*, if the department discovers that it had previously denied the home care aide applicant's or registered home care aide's application for a license from the department or certificate of approval to be a certified family home, a certified administrator, or a registered ~~TrustLine~~ *trustline* provider.

(b) (1) If the department revokes or denies a home care aide application or registered home care aide's renewal application pursuant to subdivision (a), the department shall advise the home care aide applicant or registered home care aide, by written notification, of the right to appeal. The home care aide applicant or registered home care aide shall have 15 days from the date of the written notification to appeal the denial or revocation.

(2) Upon receipt by the department of the appeal, the appeal shall be set for hearing. The hearing shall be conducted in accordance with Section 1551.

(c) If the home care aide application or registered home care aide renewal application ~~has been~~ *is* denied, the home care aide applicant or registered home care aide shall not reapply until he or she meets the timeframe set forth in Sections 1796.40 and 1796.41.

SEC. 289. Section 1796.26 of the Health and Safety Code is amended to read:

1796.26. (a) (1) The department may revoke or deny a registered home care aide's registration or request for registration renewal if any of the following apply to the registered home care aide:

(A) He or she procured or attempted to procure his or her registered home care aide registration or renewal by fraud or misrepresentation.

(B) He or she has a criminal conviction, other than a minor traffic violation, unless an exemption is granted pursuant to Section 1522.

(C) He or she engages or has engaged in conduct ~~which~~ *that* is inimical to the health, morals, welfare, or safety of the people of the State of California or an individual receiving or seeking to receive home care services.

(2) An individual whose registration has been revoked shall not reapply until he or she meets the timeframe as set forth in Section 1796.40 or 1796.41.

(3) An individual whose criminal record exemption has been denied shall not reapply for two years from the date of the exemption denial.

(4) The hearing to revoke or deny the registered home care aide registration or registration renewal request shall be conducted in accordance with Section 1551.

(b) (1) The registered home care aide's registration shall be considered forfeited under the following conditions:

(A) The registered home care aide has had a license or certificate of approval revoked, suspended, or denied as authorized under Section 1534, 1550, 1568.082, 1569.50, 1596.608, or 1596.885.

(B) The registered home care aide has been denied employment, residence, or presence in a facility or client's home based on action resulting from an administrative hearing pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897.

(C) The registered home care aide fails to maintain a current mailing address with the department.

(D) The registered home care aide's registration is not renewed.

(E) The registered home care aide surrenders his or her registration to the department.

(F) The registered home care aide dies.

(2) An individual whose registered home care aide registration has been forfeited shall not reapply until he or she meets the timeframe set forth by the department in Sections 1796.40 and 1796.41.

(c) A registered home care aide's registration shall not be transferred or sold to another individual or entity.

SEC. 290. Section 1796.29 of the Health and Safety Code is amended to read:

1796.29. The department shall do both of the following in the administration of the home care aide registry:

(a) Establish and maintain on the department's Internet Web site the registry of registered home care aides and home care aide applicants.

(1) To expedite the ability of a consumer to search and locate a registered home care aide or home care aide applicant, the Internet Web site shall enable consumers to look up the registration status by providing the registered home care aide's or home care aide applicant's name, registration number, registration status, registration expiration date, and, if applicable, the home care organization with which the affiliated home care aide is associated.

(2) The Internet Web site shall not provide any additional, individually identifiable information about a registered home care aide or home care aide applicant. The department may request and may maintain additional information for registered home care aides or home care aide applicants, as necessary for the administration of this chapter, ~~which~~ *that* shall not be publicly available on the home care aide registry.

(b) Update the home care registry upon receiving notification from a home care organization that an affiliated home care aide is no longer employed by the home care organization.

SEC. 291. Section 1796.34 of the Health and Safety Code is amended to read:

1796.34. (a) A person or a private or public organization, with the exception of any person who performs in-home supportive services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code, and the exceptions provided for in subdivision (b), shall not do any of the following, unless *he, she, or* it is licensed pursuant to this chapter:

(1) Own, manage, or represent himself, herself or itself to be a home care organization by name, advertising, ~~soliciting,~~ *solicitation,* or any other presentments to the public, or in the context of services within the scope of this chapter, imply that he,

she, or it is licensed to provide those services or to make any reference to employee bonding in relation to those services.

(2) Use the terms "home care organization," "home care," "in-home care," or any combination of those terms, within its name.

(b) This section does not apply to either of the following:

(1) Any person who performs in-home supportive services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

(2) An employment agency, as defined in Section 1812.5095 of the Civil Code, that procures, offers, refers, provides, or attempts to provide an independent home care aide who provides home care to clients.

SEC. 292. Section 1796.37 of the Health and Safety Code is amended to read:

1796.37. (a) The department may issue a home care organization license to a home care organization applicant that satisfies the requirements set forth in this chapter, including all of the following:

(1) Files a complete home care organization application, including the fees required pursuant to Section 1796.49.

(2) Submits proof of general and professional liability insurance in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the aggregate.

(3) Submits proof of a valid workers' compensation policy covering its affiliated home care aides. The proof shall consist of the policy number, the effective and expiration dates of the policy, and the name and address of the policy carrier.

(4) Submits proof of an employee dishonesty bond, including third-party coverage, with a minimum limit of ten thousand dollars ($10,000). This proof shall be submitted at each subsequent renewal.

(5) Provides the department, upon request, with a complete list of its affiliated home care aides, and proof that each satisfies the requirements of Sections 1796.43, 1796.44, and 1796.45.

(6) Passes a background examination, as required pursuant to Section 1796.33.

(7) Completes a department orientation.

(8) Does not have any outstanding fees or civil penalties due to the department.

(9) Discloses prior or present service as an administrator, general partner, corporate ~~officer~~ *officer,* or director of, or discloses that he or she has held or holds a beneficial ownership of 10 percent or more in, any of the following:

(A) A community care facility, as defined in Section 1502.

(B) A residential care facility, as defined in Section 1568.01.

(C) A residential care facility for the elderly, as defined in Section 1569.2.

(D) A child day care facility, as defined in Section 1596.750.

(E) A day care center, as described in Chapter 3.5 (commencing with Section 1596.90).

(F) A family day care home, as described in Chapter 3.6 (commencing with Section 1597.30).

(G) An employer-sponsored child care center, as described in Chapter 3.65 (commencing with Section 1597.70).

(H) A home care organization licensed pursuant to this chapter.

(10) Discloses any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in paragraph (9).

(11) Provides evidence that every member of the board of directors, if applicable, understands his or her legal duties and obligations as a member of the board of directors and that the home care organization's operation is governed by laws and regulations that are enforced by the department.

(12) Provides any other information as may be required by the department for the proper administration and enforcement of this chapter.

(13) Cooperates with the department in the completion of the home care organization license application process. Failure of the home care organization licensee to cooperate may result in the withdrawal of the home care organization license application. "Failure to cooperate" means that the information described in this chapter and in any rules and regulations promulgated pursuant to this chapter has not been provided, or not provided in the form requested by the department, or both.

(b) A home care organization licensee shall renew the home care organization license every two years. The department may

renew a home care organization license if the licensee satisfies the requirements set forth in this chapter, including all of the following:

(1) Files a complete home care organization license renewal application, including the nonrefundable fees required pursuant to Section 1796.49, both of which shall be postmarked on or before the expiration of the license.

(2) Submits proof of general and professional liability insurance in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the aggregate.

(3) Submits proof of a valid workers' compensation policy covering its affiliated home care aides. The proof shall consist of the policy number, the effective and expiration dates of the policy, and the name and address of the policy carrier.

(4) Submits proof of an employee dishonesty bond, including third-party coverage, with a minimum limit of ten thousand dollars ($10,000).

(5) Does not have any outstanding fees or civil penalties due to the department.

(6) Provides any other information as may be required by the department for the proper administration and enforcement of this chapter.

(7) Cooperates with the department in the completion of the home care organization license renewal process. Failure of the home care organization licensee to cooperate may result in the withdrawal of the home care organization license renewal application. "Failure to cooperate" means that the information described in this chapter and in any rules and regulations promulgated pursuant to this chapter has not been provided, or not provided in the form requested by the department, or both.

(c) (1) The department shall notify a licensed home care organization in writing of its registration expiration date and the process of renewal.

(2) Written notification pursuant to this subdivision shall be mailed to the registered home care organization's mailing address of record at least 60 days before the registration expiration date.

SEC. 293. Section 1796.38 of the Health and Safety Code is amended to read:

1796.38. The department may deny an application for licensure or suspend or revoke any license issued pursuant to this chapter,

pursuant to Sections 1550.5 and 1551 and in the manner provided in this chapter on any of the following grounds:

(a) Violation by the licensee of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct ~~which~~ *that* is inimical to the health, morals, welfare, or safety of either an individual receiving home care services or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime ~~as defined~~ *described* in Section 1522.

(e) Engaging in acts of financial malfeasance concerning the operation of a home care organization.

SEC. 294. Section 1796.41 of the Health and Safety Code is amended to read:

1796.41. (a) (1) If the department determines that a person was issued a license pursuant to this chapter or Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65 (commencing with Section 1597.70), and the prior license was revoked within the preceding two years, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of any home care organizations licensed by the department pursuant to this chapter.

(2) If the department determines that a person was previously issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of any home care organizations licensed by the department pursuant to this chapter as follows:

(1) In cases ~~where~~ *in which* the home care organization applicant petitioned for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases ~~where~~ *in which* the department informed the home care organization applicant of his or her right to petition for a hearing and the home care organization applicant did not petition for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter and as follows:

(1) In cases ~~where~~ *in which* the home care organization applicant petitioned for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of

directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases ~~where~~ *in which* the department informed the home care organization applicant of his or her right to petition for a hearing and the home care organization applicant did not petition for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1796.25 or any other law.

(e) The department may determine not to exclude a person from ~~acting as~~ *acting,* or require that he or she be removed from his or her ~~position~~ *position,* as a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

SEC. 295. Section 1796.44 of the Health and Safety Code is amended to read:

1796.44. (a) A licensee shall ensure that prior to providing home care services, an affiliated home care aide shall complete the training requirements specified in this section.

(b) An affiliated home care aide shall complete a minimum of five hours of entry-level training prior to presence with a client, as follows:

(1) Two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment.

(2) Three hours of safety training, including basic safety precautions, emergency procedures, and infection control.

(c) In addition to the requirements in subdivision (b), an affiliated home care aide shall complete a minimum of five hours

of annual training. The annual training shall relate to core competencies and be population specific, which shall include, but not be limited to, the following areas:

(1) Clients' rights and safety.

(2) How to provide for, and respond to, a client's daily living needs.

(3) How to report, prevent, and detect abuse and neglect.

(4) How to assist a client with personal hygiene and other home care services.

(5) If transportation services are provided, how to safely transport a client.

(d) The entry-level training and annual training described in subdivisions (b) and (c) may be completed through an online training program.

SEC. 296. Section 1796.45 of the Health and Safety Code is amended to read:

1796.45. (a) Affiliated home care aides hired on or after January 1, 2016, shall submit to an examination 90 days prior to ~~employment~~ *employment*, or within seven days after ~~employment~~ *employment*, to determine that the individual is free of active tuberculosis disease.

(b) For purposes of this section, "examination" means a test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and ~~that is~~ licensed by the federal Food and Drug Administration (FDA) and, if that test is positive, an X-ray of the lungs. The aide shall not work as an affiliated home care aide unless the licensee obtains documentation from a licensed medical professional that there is no risk of spreading the disease.

(c) After submitting to an examination, an affiliated home care aide whose test for tuberculosis infection is negative shall be required to undergo an examination at least once every two years. Once an affiliated home care aide has a documented positive test for tuberculosis infection that has been followed by an X-ray, the examination is no longer required.

(d) After each examination, an affiliated home care aide shall submit, and the home care organization shall keep on file, a certificate from the examining practitioner showing that the affiliated home care aide was examined and found free from active tuberculosis disease.

(e) The examination is a condition of initial and continuing employment with the home care organization.

(f) An affiliated home care aide who transfers employment from one home care organization to another shall be deemed to meet the requirements of subdivision (a) or (c) if the affiliated home care aide can produce a certificate showing that he or she submitted to the examination within the past two years and was found to be free of active tuberculosis disease, or if it is verified by the home care organization previously employing him or her that it has a certificate on file that contains that showing and a copy of the certificate is provided to the new home care organization prior to the affiliated home care aide beginning employment.

SEC. 297. Section 4730.65 of the Health and Safety Code is amended to read:

4730.65. (a) Notwithstanding Sections 4730, 4730.1, and 4730.2, or any other law, the governing body of the Orange County Sanitation District shall be a board of directors composed of all of the following:

(1) One member of the city council of each city located wholly or partially within the district's boundaries, except the City of Yorba Linda, provided, however, a city within the Orange County Sanitation District, the sewered portion of which city lies entirely within another sanitary district, shall have no representation on the board.

(2) One member of the county board of supervisors.

(3) One member of the governing body of each sanitary district, the whole or part of which is included in the Orange County Sanitation District.

(4) One member of the governing body of a public agency empowered to and engaged in the collection, transportation, treatment, or disposal of sewage and ~~which~~ *that* was a member agency of a sanitation district consolidated into the Orange County Sanitation District.

(5) One member of the governing body of the Yorba Linda Water District.

(b) The governing body of the county and each city, sanitary district, and public agency that is a member agency having a representative on the board of directors of the Orange County Sanitation District, may designate one of its members to act in the

place of its regular member in his or her absence or his or her inability to act.

(c) ~~No~~ *An* action shall *not* be taken at any meeting of the Orange County Sanitation District's board of directors unless a majority of all authorized members of the board of directors is in attendance.

(d) A majority of the members of the board of directors present ~~shall be~~ *is* required to approve or otherwise act on any matter except as otherwise required by law.

SEC. 298. Section 4766.5 of the Health and Safety Code, as added by Section 21 of Chapter 158 of the Statutes of 2005, is amended and renumbered to read:

~~4766.5.~~

4766.7. A district may destroy a record pursuant to Chapter 7 (commencing with Section 60200) of Division 1 of Title 6 of the Government Code.

SEC. 299. Section 8650.5 of the Health and Safety Code, as added by Section 36 of Chapter 436 of the Statutes of 2001, is repealed.

~~8650.5. An affidavit executed by a person who is the owner of the plot by virtue of the laws of intestate succession or by his or her attorney-in-fact, setting forth the fact of the death of the owner, the absence of a disposition of the plot by the owner in his or her will by a specific devise, the name of the person or persons who have rights to the plot under the intestate succession laws of the state, and the consent of that person or those persons to the sale of the plot by the cemetery authority, shall constitute complete authorization to the cemetery authority to permit any sale of the unoccupied portions of the plot.~~

SEC. 300. The heading of Article 3 (commencing with Section 11140) of Chapter 3 of Division 10 of the Health and Safety Code is repealed.

~~Article 3. Registration of Dealers and Users of Piperidine~~

SEC. 301. The heading of Article 2 (commencing with Section 11760.5) of Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code, as added by Chapter 679 of the Statutes of 1979, is repealed.

~~Article 2. Definitions~~

SEC. 302. The heading of Article 6 (commencing with Section 11780) of Chapter 2 of Part 2 of Division 10.5 of the Health and Safety Code is repealed.

~~Article 6. State Advisory Board~~

SEC. 303. Division 10.10 (commencing with Section 11999.30) of the Health and Safety Code is repealed.

SEC. 304. Section 13143.5 of the Health and Safety Code, as added by Chapter 1204 of the Statutes of 1973, is amended and renumbered to read:

~~13143.5.~~

13143.3 ~~Neither the~~ *The* State Fire Marshal ~~nor~~ *or* any local public entity shall *not* charge any fee for enforcing the provisions of Section 13143 or regulations adopted pursuant thereto with respect to facilities providing nonmedical board, room, and care for six or less children which are required to be licensed under the provisions of Chapter 2 (commencing with Section 1250) of Division 2.

SEC. 305. The heading of Chapter 3 (commencing with Section 16500) of Division 12.5 of the Health and Safety Code, as added by Section 2 of Chapter 953 of the Statutes of 1989, is amended and renumbered to read:

CHAPTER ~~3.~~*3.5*. SCHOOL BUILDINGS

SEC. 306. 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 17283 of the Education Code, which guidelines shall take into consideration the unique design, use, safety needs, and construction of the school buildings.

SEC. 307. The heading of Article 5.5 (commencing with Section 25159.10) of Chapter 6.5 of Division 20 of the Health and Safety Code, as added by Section 1 of Chapter 1591 of the Statutes of 1985, is amended and renumbered to read:

Article ~~5.5.~~*5.6.* The Toxic Injection Well Control Act of 1985

SEC. 308. Section 25163.3 of the Health and Safety Code is amended to read:

25163.3. A person who initially collects hazardous waste at a remote site and transports that hazardous waste to a consolidation site operated by the generator and who complies with the notification requirements of subdivision (d) of Section 25110.10 shall be exempt from the manifest and transporter registration requirements of Sections 25160 and 25163 with regard to the hazardous waste if all of the following conditions are met:

(a) The hazardous waste is a non-RCRA hazardous waste, or the hazardous waste or its transportation is otherwise exempt from, or is not otherwise regulated pursuant to, the federal act.

(b) The conditions and requirements of Section 25121.3 are met.

(c) The regulations adopted by the department pertaining to personnel training requirements for generators are complied with for all personnel handling the hazardous waste during transportation from the remote site to the consolidation site.

(d) The hazardous waste is transported by employees of the generator or by trained contractors under the control of the generator, in vehicles that are under the control of the generator, or by registered hazardous waste transporters. The generator shall assume liability for a spill of hazardous waste being transported under this section by the generator, or a contractor in a vehicle under the control of the generator or contractor. ~~Nothing in this~~ *This* subdivision ~~bars~~ *does not bar* any agreement to insure, hold harmless, or indemnify a party to the agreement for any liability under this section or otherwise bars any cause of action a generator would otherwise have against any other party.

(e) The hazardous waste is not held at any interim location, other than another remote site operated by the same generator, for more than eight hours, unless that holding is required by other provisions of law.

(f) Not more than 275 gallons or 2,500 pounds, whichever is greater, of hazardous waste is transported in any single shipment, except for the following:

(1) A generator who is a public utility, local publicly owned utility, or municipal utility district may transport up to 1,600 gallons of hazardous wastewater from the dewatering of one or

more utility vaults, or up to 500 gallons of another liquid hazardous waste in a single shipment.

(2) A generator who is a public utility, local publicly owned utility, or municipal utility district may transport up to 5,000 gallons of mineral oil from a transformer, circuit breakers, or capacitors, owned by the generator, in a single shipment if the oil does not exhibit the characteristic of toxicity pursuant to the test specified in subparagraph (B) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations.

(3) (A) A generator who is a public utility, local publicly owned utility, or municipal utility district may transport up to 5,000 gallons of hazardous wastewater from the dewatering of a utility vault in an emergency situation.

(B) For the purposes of this paragraph "emergency situation" means that utility vault dewatering necessitates immediate response to avoid endangerment to human health, public safety, or the environment, under one or more of the following circumstances:

(i) A vehicle hits a utility pole or stationary utility equipment and knocks down a transformer that spills oil on a public area.

(ii) A spill occurs at or near a vault rendering the contents potentially hazardous and crews need to remove the liquid to decontaminate the vault and to access critical equipment to avoid a service outage.

(iii) A spill occurs at or near a vault that renders the contents potentially hazardous and rainwater flowing into the vault threatens to cause an overflow that will spill into the surrounding area.

(iv) Groundwater intrusion threatens the electrical equipment inside the vault and the reliability of the electrical system.

(v) Heavy rain events, due to the rate of rainfall, ~~threatens~~ *threaten* the cables and equipment inside the vault.

(C) In transporting hazardous waste pursuant to this paragraph, the generator shall only collect hazardous waste from one utility vault and shall not consolidate hazardous waste from multiple sites.

(g) A shipping paper containing all of the following information accompanies the hazardous waste while in transport, except as provided in subdivision (h):

(1) A list of the hazardous wastes being transported.

(2) The type and number of containers being used to transport each type of hazardous waste.

(3) The quantity, by weight or volume, of each type of hazardous waste being transported.

(4) The physical state, such as solid, powder, liquid, semiliquid, or gas, of each type of hazardous waste being transported.

(5) The location of the remote site where the hazardous waste is initially collected.

(6) The location of any interim site where the hazardous waste is held en route to the consolidation site.

(7) The name, address, and telephone number of the generator, and, if different, the address and telephone number of the consolidation site to which the hazardous waste is being transported.

(8) The name and telephone number of an emergency response contact, for use in the event of a spill or other release.

(9) The name of the individual or individuals who transport the hazardous waste from the remote site to the consolidation site.

(10) The date that the generator first begins to actively manage the hazardous waste at the remote site, the date that the shipment leaves the remote site where the hazardous waste is initially collected, and the date that the shipment arrives at the consolidation site.

(h) A shipping paper is not required if the total quantity of the shipment does not exceed 10 pounds of hazardous waste, except that a shipping paper is required to transport any quantity of extremely or acutely hazardous waste.

(i) All shipments conform with all applicable requirements of the United States Department of Transportation for hazardous materials shipments.

SEC. 309. Section 25262 of the Health and Safety Code is amended to read:

25262. (a) A responsible party for a hazardous materials release site may request the committee at any time to designate an administering agency to oversee a site investigation and remedial action at the site. The committee shall designate an administering agency as responsible for the site within 45 days of the date the request is received. A request to designate an administering agency may be denied only if the committee makes one of the following findings:

(1) No single agency in state or local government has the expertise needed to adequately oversee a site investigation and remedial action at the site.

(2) Designating an administering agency will have the effect of reversing a regulatory or enforcement action initiated by an agency that has jurisdiction over the site, a facility on the site, or an activity at the site.

(3) Designating an administering agency will prevent a regulatory or enforcement action required by federal law or regulations.

(4) The administering agency and the responsible party are local agencies formed, in whole or in part, by the same political subdivision.

(b) A responsible party who requests the designation of an administering agency for a hazardous materials release site shall provide the committee with a brief description of the site, an analysis of the known or suspected nature of the release or threatened release that is the subject of required site investigation or remedial action, a description of the type of facility from which the release occurred or the type of activity that caused the release, a specification of the regulatory or enforcement actions that have been taken, or are pending, with respect to the release, and a statement of which agency the responsible party believes should be designated as administering agency for the site.

(c) (1) The committee shall take all of the following factors into account in determining which agency to designate as administering agency for a site:

(A) The type of release that is the subject of site investigation and remedial action.

(B) The nature of the threat that the release poses to human health and safety or to the environment.

(C) The source of the release, the type of facility or activity from which the release occurred, the regulatory programs that govern the facility or activity involved, and the agency or agencies that administer those regulatory programs.

(D) The regulatory history of the site, the types of regulatory actions or enforcement actions that have been taken with respect to the site or the facility or activity from which the release occurred, and the experience and involvement that various agencies have had with the site.

(E) The capabilities and expertise of the agencies that are candidates for designation as the administering agency for the site and the degree to which those capabilities and that expertise are applicable to the type of release at the site, the nature of the threat that the release poses to health and safety or the environment and the probable remedial measures that will be required.

(2) After weighing the factors described in paragraph (1) as they apply to the site, the committee shall use the criteria specified in subparagraphs (A), (B), (C), and (D) as guidelines for designating the administering agency. If more than one of the criteria apply to the site, the committee shall use its best judgment, taking into account the known facts concerning the hazardous materials release at the site and its regulatory history, in determining which agency may best serve as the administering agency. The criteria are as follows:

(A) The administering agency shall be the Department of Toxic Substances Control if one of the following applies:

(i) The department has issued an order, or otherwise initiated action, with respect to the release at the site pursuant to Section 25355, 25355.5, or 25358.3.

(ii) The department has issued an order for corrective action at the site pursuant to Section 25187.

(iii) The source of the release is a facility or hazardous waste management unit or an activity that is, or was, regulated by the department pursuant to Chapter 6.5 (commencing with Section 25100).

(iv) The department is conducting, or has conducted, oversight of the site investigation and remedial action at the site at the request of the responsible party.

(B) The administering agency shall be the California regional water quality control board for the region in which the site is located, if one of the following applies:

(i) The California regional water quality control board has issued a cease and desist order pursuant to Section 13301, or a cleanup and abatement order pursuant to Section 13304 of the Water Code in connection with the release at the site.

(ii) The source of the release is a facility or an activity that is subject to waste discharge requirements issued by the California regional water quality control board pursuant to Section 13263 of the Water Code or that is regulated by the California regional water

quality control board pursuant to Article ~~5.5~~ *5.6* (commencing with Section 25159.10) of, or Article 9.5 (commencing with Section 25208) of, Chapter 6.5, or pursuant to Chapter 6.67 (commencing with Section 25270).

(iii) The California regional water quality control board has jurisdiction over the site pursuant to Chapter 5.6 (commencing with Section 13390) of Division 7 of the Water Code.

(C) The administering agency shall be the Department of Fish and Game if the release has polluted or contaminated the waters of the state and the department has taken action against the responsible party pursuant to Section 2014 or 12015 of, or Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6 of, the Fish and Game Code, subsection (f) of Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (42 U.S.C. Sec. 9607 (f)), or Section 311 of the Federal Water Pollution Act, as amended (33 U.S.C. Sec. 1321).

(D) The administering agency shall be a local agency if any one of the following circumstances is applicable:

(i) The source of the release at the site is an underground storage tank, as defined in subdivision (y) of Section 25281, the local agency is the agency described in subdivision (i) of Section 25281, and there is no evidence of any extensive groundwater contamination at the site.

(ii) The local agency has accepted responsibility for overseeing the site investigation or remedial action at the site and a state agency is not involved.

(iii) The local agency has agreed to oversee the site investigation or remedial action at the site and is certified, or has been approved, by a state agency to conduct that oversight.

(d) A responsible party for a hazardous materials release site may request the designation of an administering agency for the site pursuant to this section only once. The action of the committee on the request is a final action and is not subject to further administrative or judicial review.

SEC. 310. The heading of Article 8 (commencing with Section 25299.80) of Chapter 6.75 of Division 20 of the Health and Safety Code is repealed.

~~Article 8. Long-Term Study~~

SEC. 311. The heading of Article 12 (commencing with Section 25299.97) of Chapter 6.75 of Division 20 of the Health and Safety Code, as added by Section 7 of Chapter 814 of the Statutes of 1997, is repealed.

~~Article 12. Drinking Water Well Protection~~

SEC. 312. Section 25299.97 of the Health and Safety Code, as amended by Section 134 of Chapter 745 of the Statutes of 2001, is repealed.

~~25299.97. (a) For the purposes of this article, the following definitions shall apply:~~

~~(1) "Public drinking water well" means a wellhead that provides drinking water to a public water system, as that term is defined in Section 116275, that is regulated by the State Department of Health Services and that is subject to Section 116455.~~

~~(2) "MTBE" means methyl tertiary-butyl ether.~~

~~(3) "GIS mapping system" means a geographic information system that collects, stores, retrieves, analyzes, and displays environmental geographic data in a data base that is accessible to the public.~~

~~(4) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol or gasoline and oxygenates and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosine, liquefied petroleum gas, or natural gas, in liquid or gaseous form.~~

~~(5) "Oxygenated motor vehicle fuel" is motor vehicle fuel, as defined in paragraph (4), that meets the federal definition for "Oxygenated Fuel" as defined in Section 7545(m) of Title 42 of the United States Code.~~

~~(6) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.~~

~~(b) The State Water Resources Control Board shall upgrade the data base created by Section 25299.39.1. This upgrade shall include the establishment of a statewide GIS mapping system as described~~

~~in this section only upon an appropriation by the Legislature for this purpose.~~

~~(c) (1) For purposes of subdivision (b), the board shall create a GIS Mapping and Data Management Advisory Committee. The committee shall give the board advice on location standards, protocols, metadata, and the appropriate data to expand the data base to create a cost-effective GIS mapping system that will provide the appropriate information to allow agencies to better protect public drinking water wells and, if feasible, nearby aquifers that are reasonably expected to be used as drinking water, from contamination by motor vehicle fuel from underground storage tanks and intrastate and interstate pipelines that are regulated by the State Fire Marshal pursuant to the California Pipeline Safety Act of 1981, Chapter 5.5 (commencing with Section 51010.5) of Part 1 of Division 1 of Title 5 of the Government Code.~~

~~(2) The advisory committee shall include, at a minimum, members from appropriate state and local agencies, affected industry and business, the water agencies that provide drinking water in Santa Monica, the water agencies that provide drinking water in the Santa Clara Valley, nonprofit environmental groups dedicated to the conservation and preservation of natural resources, and underground storage tank owners.~~

~~(d) (1) The board shall create two pilot projects, the Santa Monica Groundwater Pilot Project and the Santa Clara Valley Groundwater Pilot Project, which shall terminate on July 1, 1999.~~

~~(2) The board shall create the pilot projects with the advice of the advisory committee so as to expedite and prioritize the upgrading of the data base for those regions of the state where groundwater provides, or would be called on in an emergency to provide, a significant portion of the region's drinking water.~~

~~(3) The board shall use the pilot projects to define and assess the parameters of the data base, identify data needs, develop opportunities to electronically link data bases and electronic submission of information, offer access to the public via the Internet, streamline existing processes, and work out the details for data management and a GIS mapping system as described in this article.~~

~~(4) The pilot projects shall study appropriate modification to public water systems and response times.~~

~~(e) To upgrade the data base as required by this section, the board, in consultation with the advisory committee, shall do all of the following:~~

~~(1) Coordinate with the Department of Water Resources and the State Department of Health Services to obtain the location of existing drinking water wells and appropriate water resource and quality data to meet the requirements of this article.~~

~~(2) Coordinate with local agencies authorized to implement this chapter to obtain the location of all underground storage tanks that store motor vehicle fuel that are within 1,000 feet of a public drinking water well.~~

~~(3) Coordinate with local agencies authorized to implement this chapter to add the location of all known releases of motor vehicle fuel from underground storage tanks that are within 1,000 feet of a drinking water well.~~

~~(4) Coordinate with the State Fire Marshal to add the location and leak history of all pipelines or segments of pipelines that transport motor vehicle fuel and that are regulated by the State Fire Marshal pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within 1,000 feet of an existing public drinking water well.~~

~~(f) The board may expend up to four hundred thousand dollars ($400,000) from the Underground Storage Tank Cleanup Fund for the purposes set forth in Section 25299.36 to fund the GIS mapping system projects referred to in this section.~~

SEC. 313. Section 25299.97 of the Health and Safety Code, as amended by Section 135 of Chapter 745 of the Statutes of 2001, is amended to read:

25299.97. (a) For the purposes of this article, the following definitions shall apply:

(1) "Public drinking water well" means a wellhead that provides drinking water to a public water system, as that term is defined in Section 116275, that is regulated by the State ~~Department of Health Services~~ *Water Resources Control Board* and that is subject to Section 116455.

(2) "MTBE" means methyl tertiary-butyl ether.

(3) "GIS mapping system" means a geographic information system that collects, stores, retrieves, analyzes, and displays environmental geographic data in a data base that is accessible to the public.

(4) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol or gasoline and ~~oxygenates~~ *oxygenates,* and any inflammable liquid, by whatever name the liquid may be known or sold, ~~which~~ *that* is used or usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosine, liquefied petroleum gas, or natural gas, in liquid or gaseous form.

(5) "Oxygenated motor vehicle fuel" is motor vehicle fuel, as defined in paragraph (4), that meets the federal definition for "Oxygenated ~~Fuel" as defined~~ *fuel"* in Section 7545(m) of Title 42 of the United States Code.

(6) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.

(b) The State Water Resources Control Board shall upgrade the data base created by Section ~~25299.39.1.~~ *25296.35.* This upgrade shall include the establishment of a statewide GIS mapping system as described in this section only upon an appropriation by the Legislature for this purpose.

(c) (1) For purposes of subdivision (b), the board shall create a GIS Mapping and Data Management Advisory Committee. The committee shall give the board advice on location standards, protocols, metadata, and the appropriate data to expand the data base to create a cost-effective GIS mapping system that will provide the appropriate information to allow agencies to better protect public drinking water wells and, if feasible, nearby aquifers that are reasonably expected to be used as drinking water, from contamination by motor vehicle fuel from underground storage tanks and intrastate and interstate pipelines that are regulated by the State Fire Marshal pursuant to the California Pipeline Safety Act of 1981, Chapter 5.5 (commencing with Section 51010.5) of Part 1 of Division 1 of Title 5 of the Government Code.

(2) The advisory committee shall include, at a minimum, members from appropriate state and local agencies, affected industry and business, the water agencies that provide drinking water in Santa Monica, the water agencies that provide drinking water in the Santa Clara Valley, nonprofit environmental groups

dedicated to the conservation and preservation of natural resources, and underground storage tank owners.

(d) (1) The board shall create two pilot projects, the Santa Monica Groundwater Pilot Project and the Santa Clara Valley Groundwater Pilot Project, which shall terminate on July 1, 1999.

(2) The board shall create the pilot projects with the advice of the advisory committee so as to expedite and prioritize the upgrading of the data base for those regions of the state where groundwater provides, or would be called on in an emergency to provide, a significant portion of the region's drinking water.

(3) The board shall use the pilot projects to define and assess the parameters of the data base, identify data needs, develop opportunities to electronically link data bases and electronic submission of information, offer access to the public via the Internet, streamline existing processes, and work out the details for data management and a GIS mapping system as described in this article.

(4) The pilot ~~project~~ *projects* shall study appropriate notification to public water systems and response times.

(e) To upgrade the data base as required by this section, the board, in consultation with the advisory committee, shall do all of the following:

(1) Coordinate with the Department of Water Resources and the State Department of *Public* Health ~~Services~~ to obtain the location of existing drinking water wells and appropriate water resource and quality data to meet the requirements of this article.

(2) Coordinate with local agencies authorized to implement this chapter to obtain the location of all underground storage tanks that store motor vehicle fuel that are within 1,000 feet of a public drinking water well.

(3) Coordinate with local agencies authorized to implement this chapter to add the location of all known releases of motor vehicle fuel from underground storage tanks that are within 1,000 feet of a drinking water well.

(4) Coordinate with the State Fire Marshal to add the location and leak history of all pipelines or segments of pipelines that transport motor vehicle fuel and that are regulated by the State Fire Marshal pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within 1,000 feet of an existing public drinking water well.

(f) The board may expend up to four hundred thousand dollars ($400,000) from the Underground Storage Tank Cleanup Fund for the purposes set forth in Section 25299.36 to fund the GIS mapping system projects referred to in this section.

SEC. 314. Section 25507.2 of the Health and Safety Code is amended to read:

25507.2. Unless *otherwise* required by a local ordinance, the unified program agency shall exempt a business operating an unstaffed facility located at least one-half mile from the nearest occupied structure from Sections 25508.2 and 25511, and shall subject the business to Sections 25505, 25506, and 25507 only as specified in this section, if the business is not otherwise subject to the requirements of applicable federal law, and all of the following requirements are met:

(a) The types and quantities of materials onsite are limited to one or more of the following:

(1) One thousand standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only).

(2) Five hundred gallons of combustible liquid used as a fuel source.

(3) Corrosive liquids, not to exceed 500 pounds of extremely hazardous substances, used as electrolytes, and in closed containers.

(4) Five hundred gallons of lubricating and hydraulic fluids.

(5) One thousand two hundred gallons of hydrocarbon gas used as a fuel source.

(6) Any quantity of mineral oil contained within electrical equipment, such as transformers, bushings, electrical switches, and voltage regulators, if the spill prevention control and countermeasure plan has been prepared for quantities that meet or exceed 1,320 gallons.

(b) The facility is secured and not accessible to the public.

(c) Warning signs are posted and maintained for hazardous materials pursuant to the California Fire Code.

(d) (1) Notwithstanding Sections 25505 and 25507, a one-time business plan, except for the emergency response plan and training elements specified in paragraphs (3) and (4) of subdivision (a) of Section 25505, is submitted to the statewide information management system. This one-time business plan submittal is subject to a verification inspection by the unified program agency and the unified program agency may assess a fee not to exceed the

actual costs of processing and for inspection, if an inspection is conducted.

(2) If the information contained in the one-time submittal of the business plan changes and the time period of the change is longer than 30 days, the business plan shall be resubmitted within 30 days to the statewide information management system to reflect any change in the business plan. A fee not to exceed the actual costs of processing and inspection, if conducted, may be assessed by the unified program agency.

SEC. 315. Section 25997 of the Health and Safety Code, as added by Section 1 of Chapter 51 of the Statutes of 2010, is amended and renumbered to read:

~~25997.~~

25996.1. ~~Any~~ *A* person who violates this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both that fine and imprisonment.

SEC. 316. Section 25997.1 of the Health and Safety Code is amended and renumbered to read:

~~25997.1.~~

25996.3. The provisions of this chapter are in addition to, and not in lieu of, any other laws protecting animal welfare, including the Penal Code. This chapter shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this chapter prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

SEC. 317. Section 33492.78 of the Health and Safety Code is amended to read:

33492.78. (a) Section 33607.5 ~~shall~~ *does* not apply to an agency created pursuant to this article. For purposes of Sections 42238.02, 84750.5, and 84751 of the Education Code, funds allocated pursuant to this section shall be treated as if they were allocated pursuant to Section 33607.5.

(1) This section ~~shall apply~~ *applies* to each redevelopment project area created pursuant to a redevelopment plan that contains the provisions required by Section 33670 and is created pursuant to this article. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the

Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted from the total amount of tax-increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section ~~shall be~~ *are* in addition to any amounts the school district or districts and community college district or districts receive pursuant to subdivision (a) of Section 33670. The agency shall reduce its payments pursuant to this section to an affected school or community college district by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, or 33446, or any provision of law other than this section for, or in connection with, a public facility owned or leased by that affected school or community college district.

(3) (A) Of the total amount paid each year pursuant to this section to school districts, 43.9 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, and 56.1 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(B) Of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(C) Of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (c) of Section 2575 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(D) Of the total amount paid each year pursuant to this section to special education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(4) Local ~~education~~ *educational* agencies that use funds received pursuant to this section for educational facilities shall spend these funds at schools that are any one of the following:

(A) Within the project area.

(B) Attended by students from the project area.

(C) Attended by students generated by projects that are assisted directly by the redevelopment agency.

(D) Determined by a local ~~education~~ *educational* agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments, and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district an amount equal to the product of 25 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district, in addition to the amounts paid pursuant to subdivision (b), an amount equal to the product of 21 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the first adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The first adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected school and community college districts, in addition to the amounts paid pursuant to subdivisions (b) and (c), an amount equal to 14 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the second adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The second adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected school and community college districts may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected school and community college districts during the term of a redevelopment plan.

(2) Notwithstanding any other ~~provision of~~ law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected school or community college districts, or to pay for public facilities that will be owned or leased to an affected school or community college district.

(f) As used in this section, a "local ~~education~~ *educational* agency" includes a school district, a community college district, or a county office of education.

SEC. 318. Section 34177 of the Health and Safety Code is amended to read:

34177. Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after February 1, 2012, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (d) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum. In recognition of the fact that the timing of the California Supreme Court's ruling in the case California Redevelopment Association v. Matosantos (2011) 53 Cal.4th 231 delayed the preparation by successor agencies and the approval by oversight boards of the January 1, 2012, through June 30, 2012, Recognized Obligation Payment Schedule, a successor agency may amend the Enforceable Obligation Payment Schedule to authorize the continued payment of enforceable obligations until the time that the January 1, 2012, through June 30, 2012, Recognized Obligation Payment Schedule has been approved by the oversight board and by the Department of Finance. The successor agency may utilize reasonable estimates and projections to support payment amounts for enforceable obligations if the successor agency submits appropriate supporting documentation of the basis for the estimate or projection to the Department of Finance and the auditor-controller.

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on the date the Recognized Obligation Payment Schedule is valid pursuant to subdivision (*l*), only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, after it becomes valid, the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) ~~Nothing in the~~ *The* act adding this part ~~is to~~ *shall not* be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From February 1, 2012, to July 1, 2012, a successor agency ~~shall have no~~ *does not have* authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless ~~such~~ *the* accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188. The requirements of this subdivision ~~shall~~ *do* not apply to a successor agency that has been issued a finding of completion by the Department of Finance pursuant to Section 34179.7.

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues

deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(*l*) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency. The initial schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had the ~~a~~ redevelopment agency not been dissolved.

(B) The Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board. The successor agency shall submit a copy of the Recognized Obligation Payment Schedule to the county administrative officer, the county auditor-controller, and the Department of Finance at the same time that the successor agency submits the Recognized Obligation Payment Schedule to the oversight board for approval.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller, the Controller's office, and the Department of Finance, and is posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by April 15, 2012, for the period of January 1, 2012, to June 30, 2012, inclusive. This Recognized Obligation Payment Schedule shall include all payments made by the former redevelopment agency between January 1, 2012, through January 31, 2012, and shall include all payments proposed to be made by the successor agency from February 1, 2012, through June 30, 2012. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

(m) The Recognized Obligation Payment Schedule for the period of January 1, 2013, to June 30, 2013, shall be submitted by the successor agency, after approval by the oversight board, no later than September 1, 2012. Commencing with the Recognized Obligation Payment Schedule covering the period July 1, 2013, through December 31, 2013, successor agencies shall submit an oversight board-approved Recognized Obligation Payment Schedule to the Department of Finance and to the county auditor-controller no fewer than 90 days before the date of property tax distribution. The Department of Finance shall make its determination of the enforceable obligations and the amounts and funding sources of the enforceable obligations no later than 45 days after the Recognized Obligation Payment Schedule is submitted. Within five business days of the department's determination, a successor agency may request additional review by the department and an opportunity to meet and confer on disputed items. The meet and confer period may vary; an untimely submittal of a Recognized Obligation Payment Schedule may result in a meet and confer period of less than 30 days. The department shall notify the successor agency and the county auditor-controllers as to the outcome of its review at least 15 days before the date of property tax distribution.

(1) The successor agency shall submit a copy of the Recognized Obligation Payment Schedule to the Department of Finance electronically, and the successor agency shall complete the

Recognized Obligation Payment Schedule in the manner provided for by the department. A successor agency ~~shall be~~ *is* in noncompliance with this paragraph if it only submits to the department an electronic message or a letter stating that the oversight board has approved a Recognized Obligation Payment Schedule.

(2) If a successor agency does not submit a Recognized Obligation Payment Schedule by the deadlines provided in this subdivision, the city, county, or city and county that created the redevelopment agency shall be subject to a civil penalty equal to ten thousand dollars ($10,000) per day for every day the schedule is not submitted to the department. The civil penalty shall be paid to the county auditor-controller for allocation to the taxing entities under Section 34183. If a successor agency fails to submit a Recognized Obligation Payment Schedule by the deadline, any creditor of the successor agency or the Department of Finance or any affected taxing entity shall have standing to and may request a writ of mandate to require the successor agency to immediately perform this duty. Those actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Additionally, if an agency does not submit a Recognized Obligation Payment Schedule within 10 days of the deadline, the maximum administrative cost allowance for that period shall be reduced by 25 percent.

(3) If a successor agency fails to submit to the department an oversight board-approved Recognized Obligation Payment Schedule that complies with all requirements of this subdivision within five business days of the date upon which the Recognized Obligation Payment Schedule is to be used to determine the amount of property tax allocations, the department may determine if any amount should be withheld by the county auditor-controller for payments for enforceable obligations from distribution to taxing entities, pending approval of a Recognized Obligation Payment Schedule. The county auditor-controller shall distribute the portion of any of the sums withheld pursuant to this paragraph to the affected taxing entities in accordance with paragraph (4) of subdivision (a) of Section 34183 upon notice by the department that a portion of the withheld balances are in excess of the amount of enforceable obligations. The county auditor-controller shall distribute withheld funds to the successor agency only in

accordance with a Recognized Obligation Payment Schedule approved by the department. County auditor-controllers shall lack the authority to withhold any other amounts from the allocations provided for under Section 34183 or 34188 unless required by a court order.

(4) (A) The Recognized Obligation Payment Schedule payments required pursuant to this subdivision may be scheduled beyond the existing Recognized Obligation Payment Schedule cycle upon a showing that a lender requires cash on hand beyond the Recognized Obligation Payment Schedule cycle.

(B) When a payment is shown to be due during the Recognized Obligation Payment Schedule period, but an invoice or other billing document has not yet been received, the successor agency may utilize reasonable estimates and projections to support payment amounts for enforceable obligations if the successor agency submits appropriate supporting documentation of the basis for the estimate or projection to the department and the auditor-controller.

(C) A Recognized Obligation Payment Schedule may also include appropriation of moneys from bonds subject to passage during the Recognized Obligation Payment Schedule cycle when an enforceable obligation requires the agency to issue the bonds and use the proceeds to pay for project expenditures.

(n) Cause a postaudit of the financial transactions and records of the successor agency to be made at least annually by a certified public accountant.

SEC. 319. Section 39945 of the Health and Safety Code is amended to read:

39945. (a) For purposes of this chapter, “unsafe tire” means any tire considered unsafe in accordance with standard industry practices due to tire tread wear, tread irregularity, or damage. Examples include any tire with an exposed ply or cord, a sidewall crack, a bulge, a knot, or a ply separation.

(b) For purposes of a regulation adopted pursuant to Division 25.5 (commencing with Section 38500) that requires an automotive service provider to check and inflate a vehicle’s tires while performing automotive maintenance or repair service, a tire pressure gauge used by the provider to inflate a tire pursuant to that regulation shall be accurate within a range of plus or minus two pounds per square inch of pressure (2 psi).

(c) An automotive service provider shall not be required to check and inflate a vehicle's tire pursuant to subdivision (b) if that tire is determined to be an unsafe tire.

(d) This ~~section~~ *chapter* 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. 320. Section 42301.16 of the Health and Safety Code is amended to read:

42301.16. (a) In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean Air Act is required by district regulation to obtain a permit in a manner that is consistent with the federal requirements.

(b) Except as provided in subdivision (c), a district shall require an agricultural source of air pollution to obtain a permit unless it makes all of the following findings in a public hearing:

(1) The source is subject to a permit requirement pursuant to Section 40724.6.

(2) A permit is not necessary to impose or enforce reductions of ~~commissions~~ *emissions* of air pollutants that the district ~~show~~ *shows* cause or contribute to the violation of *a* state or federal ambient air quality standard.

(3) The requirement for the source or category of sources to obtain a permit would impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(c) Prior to requiring a permit for an agricultural source of air pollution with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the ~~district,~~ *district* for any air contaminant, but excluding fugitive dust, a district shall, in a public hearing, make all of the following findings:

(1) The source is not subject to a permit requirement pursuant to Section 40724.6.

(2) A permit is necessary to impose or enforce reductions of ~~emission~~ *emissions* of air pollutants that the district ~~show~~ *shows*

cause or contribute to a violation of a state or federal ambient air quality standard.

(3) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

SEC. 321. Section 44246 of the Health and Safety Code is repealed.

~~44246. (a) For each school district that is required to submit a trip reduction plan to the south coast district, the south coast district shall waive any fee that would otherwise be imposed for the submission or review of a trip reduction plan or for the submission or review of any alternative compliance plan, and shall instead recover that amount from the funds collected by the south coast district pursuant to Section 44243.~~

~~(b) The south coast district shall annually calculate the amount necessary to recover the costs of school district plan reviews, and the Mobile Source Air Pollution Reduction Review Committee shall allocate that amount to the south coast district from the funds collected pursuant to subdivision (c) of Section 44243.~~

~~(c) This section shall remain in effect until January 1, 2010, or until south coast district Rule 2202 is repealed in its entirety, whichever first occurs, unless a later enacted statute that is enacted before that date and before south coast district Rule 2202 is repealed, deletes or extends that date.~~

SEC. 322. Section 44525.5 of the Health and Safety Code is repealed.

~~44525.5. (a) The authority may also charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for grants and loans authorized by subdivision (e) of Section 44526.~~

~~(b) This section shall not become operative if Senate Bill 1986 of the 1999–2000 Regular Session is enacted after Assembly Bill 779 of the 1999–2000 Regular Session and adds subdivision (g) to Section 44526.~~

SEC. 323. Section 44525.7 of the Health and Safety Code, as amended by Section 11 of Chapter 643 of the Statutes of 2009, is repealed.

~~44525.7. Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the program described in subdivision (h) of Section 44526.~~

SEC. 324. Section 50561 of the Health and Safety Code is amended to read:

50561. (a) The department may approve an extension of an existing rental housing development loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, or an investment of tax credit equity as long as the rental housing development is being operated in a manner consistent with the regulatory agreement and the development requires an extension in order to continue to operate in a manner consistent with this chapter. Each extension shall be for a period of not less than 10 years and each extension shall not exceed 55 years, or 58 years if needed to match the term of tax credit restrictions. The interest rate shall be 3 percent simple interest. All loan payments shall be deferred for the full term of the loan, except for residual receipts payments. These residual receipts payments shall be structured to avoid reducing the amount of payments on local public agency loans resulting solely from changes in the payment terms on the department's loan, and not resulting from fees or other payments to the borrower, and shall otherwise be consistent with the provisions of the department's Uniform Multifamily Regulations or successor regulations. The department may charge a monitoring fee to cover the aggregate monitoring costs it incurs in years that the loan is extended and charge a transaction fee to cover its costs for processing restructuring transactions. The department may waive or defer some or all fees, if it determines that a particular development or class of developments does not have the ability to make these payments. In determining the fees and payments to be charged, the department shall seek to share monitoring activities with other regulatory agencies and to minimize the impact on tenants with the lowest incomes and on the capacity of the developments to support private debt or secure tax credit investments.

(b) To the minimum extent necessary to support new debt to pay for rehabilitation, rents for assisted units in these developments may be adjusted. This rehabilitation shall be determined by the department to be demonstrably necessary, based on third-party assessment and on the department's own inspection. Assisted units

in developments with a specific, department-approved plan to undertake the necessary rehabilitation, at a level that equals or exceeds the minimum per-unit rehabilitation cost standards under the low-income housing tax credit program, may be adjusted as follows:

(1) For developments originally financed under the bond-funded component of the Rental Housing Construction Program pursuant to Section 50771.1, and the Family Housing Demonstration Program, rents may be increased up to a maximum of 30 percent of 60 percent of area median income, for units designated in the development's original regulatory agreement as lower income units, and up to a maximum of 30 percent of 35 percent of area median income, for units designated in the development's original regulatory agreement as very low income units.

(2) For developments originally financed under other programs, rents for at least 35 percent of the assisted units, or as specified in the original regulatory agreement governing the development, whichever is greater, shall be restricted to the midlevel target used by the Multifamily Housing Program. Rents for the balance of the assisted units may be increased up to a maximum of 30 percent of 60 percent of area median income. For purposes of this paragraph, "midlevel target used by the Multifamily Housing Program" shall mean either of the following:

(A) For counties with an area median income of 110 percent or less of state median income, it shall mean 30 percent of 30 percent of state median income, expressed as a percentage of area median income.

(B) For counties with an area median income that exceeds 110 percent of the state median income, it shall ~~mean,~~ *mean* 30 percent of 35 percent of state median income, expressed as a percentage of area median income.

(c) Rent increases for tenants living in assisted units at the time of restructuring pursuant to this chapter shall be limited as follows:

(1) For existing tenants with incomes not exceeding 35 percent of area median income, increases shall be limited to 5 percent per year, until the rents reach the levels set under subdivision (b).

(2) For existing tenants with incomes exceeding 35 percent of area median income, increases shall be limited to 10 percent per year, until they reach the levels specified in paragraphs (1) and (2) of subdivision (b) of Section 50561.

(3) It is the intent of the Legislature that rent increases for existing tenants authorized by this subdivision shall not be greater than necessary to ensure the financial feasibility of the project. The projected maximum rent for tenants in assisted units, as determined by subdivision (b), shall not exceed 50 percent of the household's actual income. This requirement shall be applied using maximum rent levels and household incomes determined at the time of restructuring or at the time of the department's approval of the restructuring.

(4) If the refinance of a loan results in a rent increase, the project sponsor shall provide tenants with the following notifications:

(A) Notice six months prior to the scheduled rent increase with an estimate of the amount of the increase.

(B) Notice 90 days prior to the actual increase with the exact amount of the new rent.

(d) If existing tenants move, the rent for these units may be increased immediately up to the level specified in paragraphs (1) and (2) of subdivision (b). The income limit for new tenants shall correspond with the rent limit set pursuant to paragraphs (1) and (2) of subdivision (b).

(e) Once rents achieve the levels set forth in paragraphs (1) and (2) of subdivision (b), income levels and rent limits shall be calculated consistent with the calculation methodology used under the Low Income Housing Tax Credit program and the Multifamily Housing Program, and rent increases shall be based on increases in the area median income.

(f) Eligible households displaced as a result of rehabilitation pursuant to this section shall be accorded first priority in occupying comparable units in the development from which they were displaced, subsequent to rehabilitation. Tenants of rental housing developments repaired with assistance provided under this chapter who are temporarily or permanently displaced as a result of rehabilitation or other repair work, shall be entitled to relocation benefits pursuant to, and subject to, the requirements of Section 7260 of the Government Code. Sponsors of assisted rental housing developments shall be responsible for providing the benefits and assistance. The costs of the benefits and the assistance provided to tenants shall be eligible for funding by a loan provided pursuant to this section.

(g) The guidelines adopted by the department pursuant to subdivision (h) of Section 50560 shall be patterned after the regulations governing the Multifamily Housing Program, including the Uniform Multifamily Regulations, except that the department may adopt different standards for the following factors:

(1) Commercial vacancy loss assumptions must reflect project operating history.

(2) Debt service coverage ratios.

(3) Payment terms and principal amount of senior debt, considering financial market conditions, including costs and department risk, as determined by the department.

(4) Developer fee limitations shall be consistent with California Tax Credit Allocation Committee regulations for inclusion in the basis for projects receiving 9 percent tax credits, for projects receiving the special rent increases contemplated by this chapter, and, consistent with the requirements of other funding sources, for projects not receiving special rent increases.

(5) Replacement reserve deposit amounts must be based on projected costs over 20 years, adjusted for inflation, and as shown in an independent replacement reserve analysis.

(h) It is the intent of the Legislature in enacting this section that the department shall manage its reserves for the original Rental Housing Construction Program in a manner that will allow for the continuation of benefits to current low-income tenants for the longest period of time possible up to the term of the original regulatory agreement or the depletion of the annuity funds, whichever occurs first. Accordingly, rents for those households in units subsidized by the annuity fund established pursuant to Section 50748 may be increased to 30 percent of household income. ~~Any~~ *A* household affected by the rent increase permitted by this subdivision shall be given at least 90 days advanced notice of the increase.

(i) (1) The department shall, within available resources, post on its Internet Web site information regarding household incomes and rents for developments approved for restructuring.

(2) The information shall be provided within six months of a restructuring and, thereafter, no less than every three years.

(3) The information shall include the following or similar information:

(A) The monthly rent of each household at the time of restructuring.

(B) The current monthly rent of each household.

(C) The annual income of each household as a percentage of area median income at the time of restructuring.

(D) The current income of each household as a percentage of area median income.

SEC. 325. Section 51505 of the Health and Safety Code is amended to read:

51505. (a) In addition to the downpayment assistance program authorized by Section 51504, and notwithstanding any provision of Section 51504 to the contrary, the agency shall provide downpayment assistance from the funds set aside pursuant to subparagraph (D) of paragraph (7) of subdivision (a) of Section 53533 for the purposes of the portion of the Extra Credit Teacher Home Purchase Program provided for in subdivision (g) of Section 8869.84 of the Government Code and any other school personnel home ownership assistance programs as set forth by the California Debt Limit Allocation Committee, as operated by the agency. Notwithstanding the foregoing, the agency may, but is not required to, provide downpayment assistance pursuant to this section to any local issuer participating in the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership assistance programs as set forth by the California Debt Limit Allocation Committee.

(b) (1) Downpayment assistance for purposes of this section shall be subject to, and shall meet the requirements of, the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership programs as set forth by the California Debt Limit Allocation Committee, and shall include, but not be limited to, deferred payment, low interest rate loans.

(2) Except as provided in paragraphs (3) and (5), payment of principal and interest is deferred until the time that the home is sold or refinanced.

(3) The agency may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the agency's underwriting requirements. The agency may permit subordination on those terms and conditions as it determines are reasonable, but

subordination is not permitted if the borrower has sufficient equity to repay the loan.

(4) This downpayment assistance shall meet the requirements of paragraph (3) of, and subparagraph (A) of paragraph (4) ~~of~~ *of,* subdivision (a) ~~of,~~ *of* Section 51504.

(5) The amount of the downpayment assistance shall not be due and payable upon sale of the home if the first mortgage loan is insured by the Federal Housing Administration (FHA) or if the first mortgage loan is, or has been, transferred to the FHA, or if the requirement is otherwise contrary to regulations of the United States Department of Housing and Urban Development governing FHA insured first mortgage loans.

(c) Loans made pursuant to this section may include a provision whereby interest, principal, or both, of the loan is forgiven upon conditions to be established by the agency, or any other provision designed to carry out the purposes of the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership programs as set forth by the California Debt Limit Allocation Committee.

(d) Downpayment assistance pursuant to this section shall not exceed the greater of seven thousand five hundred dollars ($7,500) or 3 percent of the home sales price. However, the agency may, with the concurrence of the California Debt Limit Allocation Committee, establish higher assistance limits ~~where~~ *as* necessary to ensure sufficient assistance to allow program participation in high cost areas.

SEC. 326. The heading of Chapter 3 (commencing with Section 101000) of Part 2 of Division 101 of the Health and Safety Code is repealed.

~~Chapter 3. Additional Administrative Provisions (Reserved)~~

SEC. 327. The heading of Article 5 (commencing with Section 101150) of Chapter 2 of Part 3 of Division 101 of the Health and Safety Code, as added by Section 3 of Chapter 415 of the Statutes of 1995, is repealed.

~~Article 5. Municipal and County Laboratories~~

SEC. 328. The heading of Chapter 4 (commencing with Section 101325) of Part 3 of Division 101 of the Health and Safety Code, as added by Section 3 of Chapter 415 of the Statutes of 1995, is repealed.

~~Chapter 4. Actions Against Public Entities~~

SEC. 329. Section 101661 of the Health and Safety Code is amended to read:

101661. (a) The authority, in addition to any other powers granted to the authority pursuant to this chapter, shall have the following powers:

(1) To have the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state.

(2) To have perpetual existence.

(3) To adopt, have, and use a seal, and to alter it at its pleasure.

(4) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of real and personal property of any kind necessary or convenient to perform its functions and fully exercise its powers.

(6) To appoint and employ a chief executive officer and other officers and employees that may be necessary or appropriate, including legal counsel, to establish their compensation, provide for their health, retirement, and other employment benefits, and to define the power and duties of officers and employees.

(7) (A) To incur indebtedness and to borrow money and issue bonds evidencing the same, including the authority to issue, from time to time, notes and revenue bonds in principal amounts that the authority determines to be necessary to provide sufficient funds for achieving any of its purposes, including, but not limited to, assumption or refinancing of debt service for capital projects eligible for Medi-Cal supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions Code, the payment of interest on notes and bonds of the authority, the establishment of reserves to secure these notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers.

(B) Any notes, bonds, or other securities issued, and the income from them, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding the provisions of subparagraph (A), for any indebtedness, notes, bonds, or other securities that require voter approval pursuant to state law, the prior approval of the board of supervisors shall be required. Notwithstanding the required prior approval of the board of supervisors, any indebtedness incurred, or notes, bonds, or other securities issued pursuant to this subparagraph shall be the indebtedness, notes, bonds, or securities of the authority and not of the county, and the credit of the county shall not be pledged or relied upon in any manner in order to incur the indebtedness, or issue the notes, bonds, or other securities, unless the board of supervisors explicitly authorizes the use of the county's credit. The authority shall reimburse the county for all costs associated with the county's consideration of the indebtedness, notes, bonds, or securities, and the authority shall defend, indemnify, and hold harmless the county from any and all liability, costs, or expenses arising from or related to the indebtedness, notes, bonds, or securities.

(8) To pursue its own credit rating.

(9) To enter into any contract or agreement consistent with this chapter or the laws of this state, and to authorize the chief executive officer to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this chapter, and to secure the payment of bonds.

(10) To purchase supplies, equipment, materials, property, and services.

(11) To establish policies relating to its purposes.

(12) To acquire or contract to acquire, rights-of-way, easements, privileges, and property, and to construct, equip, maintain, and operate any and all works or improvements wherever located that are necessary, convenient, or proper to carry out any of the provisions, objects, or purposes of this chapter, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.

(13) To contract for and to accept gifts, grants, and loans of funds, property, or other aid in any form from the federal government, the state, a state agency, or other source, or

combination thereof, and to comply, subject to this chapter, with the terms and conditions thereof.

(14) To invest surplus money in its own treasury, manage investments, and engage third-party investment managers, in accordance with state law.

(15) To arrange for guarantees or insurance of its bonds, notes, or other obligations by the federal or state government or by a private insurer, and to pay the premiums thereof.

(16) To engage in managed care contracting, joint ventures, affiliations with other health care facilities, other health care providers and payers, management agreements, or to participate in alliances, purchasing consortia, health insurance pools, accountable care organizations, alternative delivery systems, or other cooperative arrangements, with any public or private entity.

(17) To enter into joint powers agreements pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(18) To establish nonprofit, for profit, or other entities necessary to carry out the duties of the authority.

(19) To elect to transfer funds to the state and incur certified public expenditures in support of the Medi-Cal program and other programs for which federal financial participation is available.

(20) To use a computerized management information system, including an electronic health records system, in connection with the administration of its facilities.

(21) To request that the board of supervisors levy a tax on behalf of the authority. If the board of supervisors approves the proposal to levy the tax, the board shall call the election to seek voter approval and place the appropriate measure on the ballot for that election. The proceeds of these taxes shall be tax proceeds of the authority and not of the county. The authority shall reimburse the county for all costs associated with the county's consideration of these taxes, and shall defend, indemnify, and hold harmless the county from any liability, costs, or expenses arising from or related to the imposition of these taxes.

(22) To contract with the county for the provision of indigent care services on behalf of the county. The contract shall specify that county policies consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code shall be applicable. Notwithstanding any other provision of this chapter,

the authority shall not undertake any of the county's obligations under Section 17000 of the Welfare and Institutions Code, nor shall the authority have an entitlement to receive any revenue for the discharge of the county's obligations, without a written agreement with the county.

(23) To engage in other activities that may be in the best interests of the authority and the persons served by the authority, as determined by the board of trustees, in order to respond to changes in the health care industry.

(b) The authority shall conform to the following requirements:

(1) Be a government entity separate and apart for all purposes from the county and any other public entity, and shall not be considered to be an agency, division, or department of the county or any other public entity. The authority shall not be governed by, or subject to, the policies or operational rules of the county or any other public entity.

(2) Be subject to state and federal taxation laws that are applicable to public entities generally, except that the authority may, to the extent permitted by federal law, apply for an exemption from social security taxation if there is a mutual agreement with the exclusive representatives of the affected employees.

(3) Comply with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code), the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and the Ralph M. Brown Act (Chapter ~~10~~ *9* (commencing with Section ~~3500)~~ *54950)* of Division ~~4~~ *2* of Title ~~1~~ *5* of the Government Code).

(4) To the extent the authority is permitted by federal law to participate in the Public Employees' Retirement System, assume the assets and liabilities for Public Employees' Retirement System benefits, consistent with the requirements of Section 20508 and other applicable provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code and assume workers' compensation liabilities and other employee benefits and liabilities with respect to employees of the authority, unless otherwise agreed to by the authority, the county, and the governing board.

(5) Carry professional and general liability insurance or programs to the extent sufficient to cover its activities.

(6) Comply with the requirements of Sections 53260 and 53261 of the Government Code.

(7) Meet all local, state, and federal data reporting requirements.

(8) Be subject to the jurisdiction of the Public Employment Relations Board.

(c) Open sessions of the authority ~~shall~~ constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The privileges set forth in that section with respect to official proceedings ~~shall~~ apply to open sessions of the authority.

(d) The authority ~~shall be~~ *is* a public agency for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to the authority ~~shall be~~ *are* tax deductible to the extent permitted by state and federal law. Nonproprietary income of the authority ~~shall be~~ *is* exempt from state income taxation.

(e) The authority ~~shall~~ *is* not ~~be~~ a "person" subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(f) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other providers into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, ~~shall~~ apply to the authority and the board of trustees.

(g) Unless otherwise agreed to by the authority and the board of supervisors, or the authority and a governing board, an obligation of the authority, statutory, contractual or otherwise, ~~shall be~~ *is* the obligation solely of the authority and ~~shall~~ not ~~be~~ the obligation of the county or any other entity, and any contract executed by and between the county and the authority, or any other entity and the authority, shall contain a provision that liabilities or obligations of the authority with respect to its activities pursuant to the contract shall be the liabilities or obligations of the authority and shall not be or become the liabilities or obligations of the county or the other entity, respectively.

(h) An obligation of the authority, statutory, contractual or otherwise, ~~shall be~~ *is* the obligation solely of the authority and ~~shall~~ not ~~be~~ the obligation of the state.

(i) In the event of a change of license ownership, the board of trustees shall comply with the obligations of governing bodies of general acute care hospitals generally as set forth in Section 70701 of Title 22 of the California Code of Regulations, as currently written or subsequently amended, as well as the terms and conditions of the license. The authority ~~shall be~~ *is* the responsible party with respect to compliance with these obligations, terms, and conditions.

(j) (1) Provisions of the Evidence Code, the Government Code, including the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies ~~shall~~ apply to the peer review activities of the authority. Peer review proceedings ~~shall~~ constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings ~~shall~~ apply to peer review proceedings of the authority. If the authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission ~~shall~~ *does* not constitute a waiver of confidentiality. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding any other law, Section 1461 ~~shall apply~~ *applies* to hearings on reports of hospital medical audit or quality assurance committees.

(k) (1) ~~Any~~ *A* transfer by the county to the authority, or by the governing board to the authority, of the maintenance, operation, and management or ownership of the medical center or the other health care facility, respectively, whether or not the transfer includes the surrendering by the county or the governing board of any existing general acute care hospital license and corresponding application for a change of ownership of the license, ~~shall~~ *does* not affect the eligibility of the county or the governing board to undertake, and ~~shall authorize~~ *authorizes* the authority, subject to applicable requirements, to do, any of the following:

(A) With the written consent of the county, participate in and receive allocations pursuant to the California Health Care for Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code, or similar programs, as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(B) With the written consent of the county, participate in and receive allocations of local revenue fund amounts provided pursuant to Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(C) Participate in the financing of, and receive, Medicaid disproportionate share hospital payments available to a county hospital or designated public hospital, or any other successor or modified payment or funding that is intended to assist hospitals that serve a disproportionate share of low-income patients with special needs. The allocation of Medicaid disproportionate share hospital payments shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(D) Participate in the financing of, and receive, Medi-Cal supplemental reimbursements, including, but not limited to, payments made pursuant to Sections 14105.96, 14105.965, 14166.4, and 14182.15 of the Welfare and Institutions Code, payments described in paragraph (4) of subdivision (b) of Section 14301.4 of the Welfare and Institutions Code, and payments made available to a county provider or designated public hospital, or governmental entity with which it is affiliated, under any other successor or modified Medicaid payment system.

(E) Participate in the financing of, and receive, safety net care pool funding, stabilization funding, delivery system reform incentive pool payments, and any other funding available to a county provider or designated public hospital, or governmental entities with which it is affiliated under the Medicaid demonstration project authorized pursuant to Article 5.2 (commencing with Section 14166) and Article 5.4 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid

demonstration project or Medicaid payment system. The allocation of safety net care pool funds shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(F) Participate in the financing, administration, and provision of services under the Low Income Health Program authorized pursuant to Part 3.6 (commencing with Section 15909) of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system if the authority enters into an agreement with the county concerning the provision of services by, and payment for these services to, the county.

(G) Participate in and receive direct grant and payment allocations pursuant to Article 5.228 (commencing with Section 14169.1) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified direct grant and payment systems funded by hospital or other provider fee assessments.

(H) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code. Notwithstanding any other provision of law, supplemental payments shall be made to the medical center under Section 14085.5 of the Welfare and Institutions Code for the debt service costs incurred by the county, and, if applicable, by the authority to the extent that debt service responsibility is refinanced, transferred to, or otherwise assumed by, directly or indirectly, the authority.

(I) Receive any other funds that would otherwise be available to a county provider or designated public hospital, or governmental entity with which it is affiliated.

(2) A transfer described in paragraph (1) shall not otherwise disqualify the county or the governing board, or in the case of a change in license ownership, the authority, from participating in any of the following:

(A) Local, state, and federal funding sources either specific to county or district hospitals, county or district ambulatory care clinics, designated public hospitals, or government entities with which they are affiliated, for which there are special provisions specific to those hospitals, ambulatory care clinics, or government entities.

(B) Funding programs in which the county or the governing board, by themselves or on behalf of the medical center or the other health care facility, respectively, had participated prior to the creation of the authority, or would otherwise be qualified to participate in had the authority not been created, and the maintenance, operation, and management or ownership of the medical center and the other health care facility not been transferred by the county and the governing board to the authority pursuant to this chapter.

(*l*) The authority, the county, and the governing board, or any combination thereof, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community by the authority.

(m) The board of trustees ~~shall have~~ *has* authority over procurement and contracts for the authority. The board of trustees shall adopt written rules, regulations, and procedures with regard to these functions. Contracts by and between the authority and any public agency, and contracts by and between the authority and providers of health care, goods, or services, may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Notwithstanding any other provision of this section, the authority shall not subcontract work performed by classifications represented by employee organizations without mutual agreement between the authority and the exclusive representatives, except that a subcontract entered into prior to the formation of the authority may remain in effect until its termination or completion and may be modified or renewed to a later termination or completion date upon agreement between the authority and the exclusive representatives of the affected classifications.

(n) The authority shall be responsible for human resource functions, including, but not limited to, position classification, compensation, recruitment, selection, hiring, discipline, termination, grievance, equal opportunity, performance management, probationary periods, training, promotion, and maintenance of records. The board of trustees shall adopt written rules, regulations, and procedures with regard to these functions. Until the time that the board of trustees adopts its own rules, regulations, or procedures with regard to these functions, the existing rules, regulations, and procedures set forth in any

memorandum of understanding described in ~~subparagraph (D) of~~ paragraph ~~(1)~~ *(3)* of subdivision (d) of Section 101658 ~~shall~~ apply. If the memoranda do not provide for the exercise of these functions, the rules, regulations, and procedures of the county ~~shall~~ apply.

(o) The authority may contract with the county or the governing board for services and personnel upon mutually agreeable terms.

(p) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, related to incompatible activities, a member of the authority's administrative staff shall not be considered to be engaged in activities inconsistent and incompatible with his or her duties as a result of prior employment or affiliation with the county or the governing board.

(q) The board of trustees and the officers and employees of the authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees, and shall be protected by the immunities applicable to public entities and public employees governed by Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the authority.

(r) Except for Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, this chapter shall prevail over any inconsistent statutes governing employees of the authority, including, but not limited to, the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 1 of Title 1 of the Government Code).

SEC. 330. Section 101850 of the Health and Safety Code is amended to read:

101850. The Legislature finds and declares the following:

(a) (1) Due to the challenges facing the Alameda Health System arising from changes in the public and private health industries, the Alameda County Board of Supervisors has determined that a transfer of governance of the Alameda Health System to an independent governing body, a hospital authority, is needed to improve the efficiency, effectiveness, and economy of the community health services provided at the medical center. The board of supervisors has further determined that the creation of an independent hospital authority strictly and exclusively dedicated

to the management, administration, and control of the medical center, in a manner consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code, is the best way to fulfill its commitment to the medically indigent, special needs, and general populations of Alameda County. To accomplish this, it is necessary that the board of supervisors be given authority to create a hospital authority. Because there is no general law under which this authority could be formed, the adoption of a special act and the formation of a special authority is required.

(2) The following definitions ~~shall~~ apply for purposes of this section:

(A) "The county" means the County of Alameda.

(B) "Governing board" means the governing body of the hospital authority.

(C) "Hospital authority" means the separate public agency established by the Board of Supervisors of Alameda County to manage, administer, and control the Alameda Health System.

(D) "Medical center" means the Alameda Health System, which was formerly known as the Alameda County Medical Center.

(b) The board of supervisors of the county may, by ordinance, establish a hospital authority separate and apart from the county for the purpose of effecting a transfer of the management, administration, and control of the medical center in accordance with Section 14000.2 of the Welfare and Institutions Code. A hospital authority established pursuant to this chapter shall be strictly and exclusively dedicated to the management, administration, and control of the medical center within parameters set forth in this chapter, and in the ordinance, bylaws, and contracts adopted by the board of supervisors that shall not be in conflict with this chapter, Section 1442.5 of this code, or Section 17000 of the Welfare and Institutions Code.

(c) A hospital authority established pursuant to this chapter shall be governed by a board that is appointed, both initially and continually, by the Board of Supervisors of the County of Alameda. This hospital authority governing board shall reflect both the expertise necessary to maximize the quality and scope of care at the medical center in a fiscally responsible manner and the diverse interest that the medical center serves. The enabling ordinance shall specify the membership of the hospital authority governing board, the qualifications for individual members, the manner of

appointment, selection, or removal of governing board members, their terms of office, and all other matters that the board of supervisors deems necessary or convenient for the conduct of the hospital authority's activities.

(d) The mission of the hospital authority shall be the management, administration, and other control, as determined by the board of supervisors, of the group of public hospitals, clinics, and programs that comprise the medical center, in a manner that ensures appropriate, quality, and cost-effective medical care as required of counties by Section 17000 of the Welfare and Institutions Code, and, to the extent feasible, other populations, including special populations in the County of Alameda.

(e) The board of supervisors shall adopt bylaws for the medical center that set forth those matters related to the operation of the medical center by the hospital authority that the board of supervisors deems necessary and appropriate. The bylaws shall become operative upon approval by a majority vote of the board of supervisors. Any changes or amendments to the bylaws shall be by majority vote of the board of supervisors.

(f) The hospital authority created and appointed pursuant to this section is a duly constituted governing body within the meaning of Section 1250 *of this code* and Section 70035 of Title 22 of the California Code of Regulations as currently written or subsequently amended.

(g) Unless otherwise provided by the board of supervisors by way of resolution, the hospital authority is empowered, or the board of supervisors is empowered on behalf of the hospital authority, to apply as a public agency for one or more licenses for the provision of health care pursuant to statutes and regulations governing licensing as currently written or subsequently amended.

(h) In the event of a change of license ownership, the governing body of the hospital authority shall comply with the obligations of governing bodies of general acute care hospitals generally as set forth in Section 70701 of Title 22 of the California Code of Regulations, as currently written or subsequently amended, as well as the terms and conditions of the license. The hospital authority ~~shall be~~ *is* the responsible party with respect to compliance with these obligations, terms, and conditions.

(i) (1) ~~Any~~ *A* transfer by the county to the hospital authority of the administration, management, and control of the medical center,

whether or not the transfer includes the surrendering by the county of the existing general acute care hospital license and corresponding application for a change of ownership of the license, ~~shall~~ *does* not affect the eligibility of the county, or in the case of a change of license ownership, the hospital authority, to do any of the following:

(A) Participate in, and receive allocations pursuant to, the California Healthcare for the Indigents Program (CHIP).

(B) Receive supplemental reimbursements from the Emergency Services and Supplemental Payments Fund created pursuant to Section 14085.6 of the Welfare and Institutions Code.

(C) Receive appropriations from the Medi-Cal Inpatient Payment Adjustment Fund without relieving the county of its obligation to make intergovernmental transfer payments related to the Medi-Cal Inpatient Payment Adjustment Fund pursuant to Section 14163 of the Welfare and Institutions Code.

(D) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code.

(E) Receive any other funds that would otherwise be available to a county hospital.

(2) ~~Any~~ *A* transfer described in paragraph (1) ~~shall~~ *does* not otherwise disqualify the county, or in the case of a change in license ownership, the hospital authority, from participating in any of the following:

(A) Other funding sources either specific to county hospitals or county ambulatory care clinics or for which there are special provisions specific to county hospitals or to county ambulatory care clinics.

(B) Funding programs in which the county, on behalf of the medical center and the Alameda County Health Care Services Agency, had participated prior to the creation of the hospital authority, or would otherwise be qualified to participate in had the hospital authority not been created, and administration, management, and control not been transferred by the county to the hospital authority, pursuant to this chapter.

(j) A hospital authority created pursuant to this chapter shall be a legal entity separate and apart from the county and shall file the statement required by Section 53051 of the Government Code. The hospital authority shall be a government entity separate and apart from the county, and shall not be considered to be an agency,

division, or department of the county. The hospital authority shall not be governed by, nor be subject to, the charter of the county and shall not be subject to policies or operational rules of the county, including, but not limited to, those relating to personnel and procurement.

(k) (1) ~~Any~~ *A* contract executed by and between the county and the hospital authority shall provide that liabilities or obligations of the hospital authority with respect to its activities pursuant to the contract shall be the liabilities or obligations of the hospital authority, and shall not become the liabilities or obligations of the county.

(2) ~~Any liabilities~~ *Liabilities* or obligations of the hospital authority with respect to the liquidation or disposition of the hospital authority's assets upon termination of the hospital authority shall not become the liabilities or obligations of the county.

(3) ~~Any~~ *An* obligation of the hospital authority, statutory, contractual, or otherwise, shall be the obligation solely of the hospital authority and shall not be the obligation of the county or the state.

(*l*) (1) Notwithstanding any other provision of this section, ~~any~~ *a* transfer of the administration, management, or assets of the medical center, whether or not accompanied by a change in licensing, ~~shall~~ *does* not relieve the county of the ultimate responsibility for indigent care pursuant to Section 17000 of the Welfare and Institutions Code or any obligation pursuant to Section 1442.5 of this code.

(2) ~~Any~~ *A* contract executed by and between the county and the hospital authority shall provide for the indemnification of the county by the hospital authority for liabilities as specifically set forth in the contract, except that the contract shall include a provision that the county shall remain liable for its own negligent acts.

(3) Indemnification by the hospital authority shall not be construed as divesting the county from its ultimate responsibility for compliance with Section 17000 of the Welfare and Institutions Code.

(m) Notwithstanding the provisions of this section relating to the obligations and liabilities of the hospital authority, a transfer of control or ownership of the medical center shall confer onto the

hospital authority all the rights and duties set forth in state law with respect to hospitals owned or operated by a county.

(n) (1) A transfer of the maintenance, operation, and management or ownership of the medical center to the hospital authority shall comply with the provisions of Section 14000.2 of the Welfare and Institutions Code.

(2) A transfer of maintenance, operation, and management or ownership to the hospital authority may be made with or without the payment of a purchase price by the hospital authority and otherwise upon the terms and conditions that the parties may mutually agree, which terms and conditions shall include those found necessary by the board of supervisors to ensure that the transfer will constitute an ongoing material benefit to the county and its residents.

(3) A transfer of the maintenance, operation, and management to the hospital authority shall not be construed as empowering the hospital authority to transfer any ownership interest of the county in the medical center except as otherwise approved by the board of supervisors.

(o) The board of supervisors shall retain control over the use of the medical center physical plant and facilities except as otherwise specifically provided for in lawful agreements entered into by the board of supervisors. Any lease agreement or other agreement between the county and the hospital authority shall provide that county premises shall not be sublet without the approval of the board of supervisors.

(p) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other hospitals into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, shall apply to the hospital authority upon a transfer of maintenance, operation, and management or ownership of the medical center by the county to the hospital authority.

(q) The hospital authority ~~shall have the power to~~ *may* acquire and possess real or personal property and may dispose of real or personal property other than that owned by the county, as may be necessary for the performance of its functions. The hospital authority ~~shall have the power to~~ *may* sue or be sued, to employ personnel, and to contract for services required to meet its

obligations. Before January 1, 2024, the hospital authority shall not enter into a contract with any other person or entity, including, but not limited to, a subsidiary or other entity established by the authority, to replace services being provided by physicians and surgeons who are employed by the hospital authority and in a recognized collective bargaining unit as of March 31, 2013, with services provided by that other person or entity without clear and convincing evidence that the needed medical care can only be delivered cost effectively by that other person or entity. Prior to entering into a contract for any of those services, the authority shall negotiate with the representative of the recognized collective bargaining unit of its physician and surgeon employees over the decision to privatize and, if unable to resolve any dispute through negotiations, shall submit the matter to final binding arbitration.

(r) Any agreement between the county and the hospital authority shall provide that all existing services provided by the medical center shall continue to be provided to the county through the medical center subject to the policy of the county and consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code.

(s) A hospital authority to which the maintenance, operation, and management or ownership of the medical center is transferred shall be a "district" within the meaning set forth in the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). Employees of a hospital authority are eligible to participate in the County Employees Retirement System to the extent permitted by law, except as described in Section 101851.

(t) Members of the governing board of the hospital authority shall not be vicariously liable for injuries caused by the act or omission of the hospital authority to the extent that protection applies to members of governing boards of local public entities generally under Section 820.9 of the Government Code.

(u) The hospital authority shall be a public agency subject to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(v) Any transfer of functions from county employee classifications to a hospital authority established pursuant to this section shall result in the recognition by the hospital authority of

the employee organization that represented the classifications performing those functions at the time of the transfer.

(w) (1) In exercising its powers to employ personnel, as set forth in subdivision (p), the hospital authority shall implement, and the board of supervisors shall adopt, a personnel transition plan. The personnel transition plan shall require all of the following:

(A) Ongoing communications to employees and recognized employee organizations regarding the impact of the transition on existing medical center employees and employee classifications.

(B) Meeting and conferring on all of the following issues:

(i) The timeframe for which the transfer of personnel shall occur. The timeframe shall be subject to modification by the board of supervisors as appropriate, but in no event shall it exceed one year from the effective date of transfer of governance from the board of supervisors to the hospital authority.

(ii) A specified period of time during which employees of the county impacted by the transfer of governance may elect to be appointed to vacant positions with the Alameda County Health Care Services Agency for which they have tenure.

(iii) A specified period of time during which employees of the county impacted by the transfer of governance may elect to be considered for reinstatement into positions with the county for which they are qualified and eligible.

(iv) Compensation for vacation leave and compensatory leave accrued while employed with the county in a manner that grants affected employees the option of either transferring balances or receiving compensation to the degree permitted employees laid off from service with the county.

(v) A transfer of sick leave accrued while employed with the county to hospital authority employment.

(vi) The recognition by the hospital authority of service with the county in determining the rate at which vacation accrues.

(vii) The possible preservation of seniority, pensions, health benefits, and other applicable accrued benefits of employees of the county impacted by the transfer of governance.

(2) ~~Nothing in this~~ *This* subdivision shall *not* be construed as prohibiting the hospital authority from determining the number of employees, the number of full-time equivalent positions, the job

descriptions, and the nature and extent of classified employment positions.

(3) Employees of the hospital authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code relating to claims and actions against public entities and public employees.

(x) Any hospital authority created pursuant to this section shall be bound by the terms of the memorandum of understanding executed by and between the county and health care and management employee organizations that is in effect as of the date this legislation becomes operative in the county. Upon the expiration of the memorandum of understanding, the hospital authority ~~shall have~~ *has* sole authority to negotiate subsequent memorandums of understanding with appropriate employee organizations. Subsequent memorandums of understanding shall be approved by the hospital authority.

(y) The hospital authority created pursuant to this section may borrow from the county and the county may lend the hospital authority funds or issue revenue anticipation notes to obtain those funds necessary to operate the medical center and otherwise provide medical services.

(z) The hospital authority ~~shall be~~ *is* subject to state and federal taxation laws that are applicable to counties generally.

(aa) The hospital authority, the county, or both, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community at the medical center.

(ab) The hospital authority ~~shall~~ *is* not ~~be~~ a "person" subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(ac) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code related to incompatible activities, a member of the hospital authority administrative staff shall not be considered to be engaged in activities inconsistent and incompatible with his or her duties as a result of employment or affiliation with the county.

(ad) (1) The hospital authority may use a computerized management information system in connection with the administration of the medical center.

(2) Information maintained in the management information system or in other filing and records maintenance systems that is confidential and protected by law shall not be disclosed except as provided by law.

(3) The records of the hospital authority, whether paper records, records maintained in the management information system, or records in any other form, that relate to trade secrets or to payment rates or the determination thereof, or which relate to contract negotiations with providers of health care, shall not be subject to disclosure pursuant to the California Public Records Act (Chapter 5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors ~~shall~~ *does* not constitute a waiver of exemption from disclosure, and the records and information once transmitted shall be subject to this same exemption. The information, if compelled pursuant to an order of a court of competent jurisdiction or administrative body in a manner permitted by law, shall be limited to in-camera review, which, at the discretion of the court, may include the parties to the proceeding, and shall not be made a part of the court file unless sealed.

(ae) (1) Notwithstanding any other law, the governing board may order that a meeting held solely for the purpose of discussion or taking action on hospital authority trade secrets, as defined in subdivision (d) of Section 3426.1 of the Civil Code, shall be held in closed session. The requirements of making a public report of actions taken in closed session and the vote or abstention of every member present may be limited to a brief general description devoid of the information constituting the trade secret.

(2) The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session that are provided to persons who have made the timely or standing request.

(3) ~~Nothing in this~~ *This* section shall *not* be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(af) Open sessions of the hospital authority ~~shall~~ constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The privileges set forth in that section

with respect to official proceedings ~~shall~~ apply to open sessions of the hospital authority.

(ag) The hospital authority ~~shall be~~ *is* a public agency for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to the hospital authority ~~shall be~~ *are* tax deductible to the extent permitted by state and federal law. Nonproprietary income of the hospital authority ~~shall be~~ *is* exempt from state income taxation.

(ah) Contracts by and between the hospital authority and the state and contracts by and between the hospital authority and providers of health care, goods, or services may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(ai) (1) Provisions of the Evidence Code, the Government Code, including the *California* Public Records Act (Chapter 5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies ~~shall~~ apply to the peer review activities of the hospital authority. Peer review proceedings ~~shall~~ constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings shall apply to peer review proceedings of the hospital authority. If the hospital authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission ~~shall~~ *does* not constitute a waiver of confidentiality. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding any other law, Section 1461 ~~shall apply~~ *applies* to hearings on the reports of hospital medical audit or quality assurance committees.

(aj) The hospital authority shall carry general liability insurance to the extent sufficient to cover its activities.

(ak) In the event the board of supervisors determines that the hospital authority should no longer function for the purposes as set forth in this chapter, the board of supervisors may, by ordinance,

terminate the activities of the hospital authority and expire the hospital authority as an entity.

(al) A hospital authority ~~which~~ *that* is created pursuant to this section, but ~~which~~ does not obtain the administration, management, and control of the medical center or ~~which~~ has those duties and responsibilities revoked by the board of supervisors, shall not be empowered with the powers enumerated in this section.

(am) (1) The county shall establish baseline data reporting requirements for the medical center consistent with the Medically Indigent Health Care Reporting System (MICRS) program established pursuant to Section 16910 of the Welfare and Institutions Code and shall collect that data for at least one year prior to the final transfer of the medical center to the hospital authority established pursuant to this chapter. The baseline data shall include, but not be limited to, all of the following:

(A) Inpatient days by facility by quarter.

(B) Outpatient visits by facility by quarter.

(C) Emergency room visits by facility by quarter.

(D) Number of unduplicated users receiving services within the medical center.

(2) Upon transfer of the medical center, the county shall establish baseline data reporting requirements for each of the medical center inpatient facilities consistent with data reporting requirements of the Office of Statewide Health Planning and Development, including, but not limited to, monthly average daily census by facility for all of the following:

(A) Acute care, excluding newborns.

(B) Newborns.

(C) Skilled nursing facility, in a distinct part.

(3) From the date of transfer of the medical center to the hospital authority, the hospital authority shall provide the county with quarterly reports specified in paragraphs (1) and (2) and any other data required by the county. The county, in consultation with health care consumer groups, shall develop other data requirements that shall include, at a minimum, reasonable measurements of the changes in medical care for the indigent population of Alameda County that result from the transfer of the administration, management, and control of the medical center from the county to the hospital authority.

(an) A hospital authority established pursuant to this section shall comply with the requirements of Sections 53260 and 53261 of the Government Code.

(ao) This section shall become operative January 1, 2015.

SEC. 331. Section 101853 of the Health and Safety Code is amended to read:

101853. (a) Pursuant to this chapter, the board of supervisors may establish by ordinance the Kern County Hospital Authority, which shall be a public agency that is a local unit of government separate and apart from the county and any other public entity for all purposes. The authority established pursuant to this chapter shall file the statement required by Section 53051 of the Government Code, and is a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(b) The purpose of the authority ~~shall be~~ *is* to do all of the following:

(1) Provide management, administration, and other controls consistent with this chapter as needed to operate the medical center and maintain its status as a designated public hospital, as defined in subdivision (d) of Section 14166.1 of the Welfare and Institutions Code, and for the operation of additional programs, clinics and other facilities, care organizations, health care service and physician practice plans, and delivery systems that may be affiliated or consolidated with the medical center, to ensure the viability of the health care safety net in the county in a manner consistent with the county's requirements under Section 17000 of the Welfare and Institutions Code.

(2) Provide management, administration, and other controls consistent with this chapter to negotiate and enter into contracts to provide or arrange, or provide directly, on a fee-for-service, capitated, or other basis, health care services to individuals including, but not limited to, those covered under Subchapters XVIII (commencing with Section 1395), XIX (commencing with Section 1396), and XXI (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code, those entitled to coverage under private group coverage, private individual coverage, ~~including~~ *including,* without limitation, coverage through Covered California, other publicly supported programs, those employed by

public agencies or private businesses, and uninsured or indigent individuals.

(c) Subject to the requirements of this chapter, the authority ~~shall have~~ *has* and ~~be~~ *is* charged with authority for the management, administration, and control of the medical center and other health-related resources. The State Department of Health Care Services shall take all necessary steps to ensure all of the following:

(1) The authority is permitted to operate the medical center.

(2) The medical center continues its status as a designated public hospital to at least the same extent as it would be designated in the absence of its transfer to the authority pursuant to this chapter.

(3) The authority may participate as a contributing public agency for all of the purposes specified in Section 433.51 of Title 42 of the Code of Federal Regulations, to the extent permitted by federal law.

(d) The board of supervisors, in the enabling ordinance, shall establish the terms and conditions of the transfer to the authority from the county, including, but not limited to, all of the following:

(1) ~~Any~~ *A* transfer of real and personal property, assets, and liabilities, including, but not limited to, liabilities of the medical center determined and assigned by the county for county funds previously advanced, but not repaid or otherwise recovered, to fund the operations of the medical center.

(2) Transfer of employees, including any necessary personnel transition plan, as specified in Section 101853.1, allocation of credit for funded pension assets and responsibility for any unfunded pension liabilities under the Kern County Employees' Retirement Association or other retirement plans, and funding of the accrued benefits of employees of the authority in the event of withdrawal from the plan or dissolution of the authority. ~~Any~~ *An* allocation of credit for funded pension assets and responsibility for ~~any~~ unfunded pension liabilities with respect to the Kern County Employees' Retirement Association ~~must~~ *shall* be approved by its governing board of retirement after consideration of legal and actuarial analysis, and ~~no such~~ *an* allocation ~~may~~ *shall not* be made that would jeopardize the qualified status of the Kern County Employees' Retirement Association under the federal Internal Revenue Code.

(3) Maintenance, operation, and management or ownership of the medical center.

(4) Transfer of licenses.

(5) Any other matters as the board of supervisors deems necessary, appropriate, or convenient for the conduct of the authority's activities.

(e) (1) Notwithstanding any other law, a transfer of maintenance, operation, and management or ownership or lease of the medical center to the authority may be made, with or without the payment of a purchase price by the authority, and otherwise upon the terms and conditions as found necessary by the board of supervisors and specified in the enabling ordinance to ensure that the transfer will constitute an ongoing material benefit to the county and its residents.

(2) A transfer of the maintenance, operation, and management, or ownership or lease of the medical center to the authority shall not be construed as empowering the authority to transfer any ownership interest of the county in any portion of the medical center, except as otherwise approved by the board of supervisors.

(3) The authority shall not transfer the maintenance, operation, and management or ownership or lease of the medical center to any other person or entity without the prior written approval of the board of supervisors. This paragraph ~~shall~~ *does* not prevent the county, by ordinance, from allowing the disposal of obsolete or surplus equipment, supplies, or furnishings of the medical center by the authority.

(4) With respect to the maintenance, operation, and management or ownership or lease of the medical center, the authority shall conform to both of the following requirements:

(A) Comply with any applicable requirements of Section 14000.2 of the Welfare and Institutions Code.

(B) Comply with any applicable requirements of Section 1442.5.

(5) The board of supervisors may retain control of the medical center physical plant and facilities, as specifically provided for in the enabling ordinance or other lawful agreements entered into by the board of supervisors. Any lease agreement between the county and the authority shall provide that county premises shall not be sublet without the approval of the board of supervisors.

(6) Notwithstanding any other provision of this chapter, and whether or not accompanied by a change in licensing, the authority's responsibility for the maintenance, operation, and management of the medical center, or any ownership or leasehold

interest of the authority in the medical center, does not relieve the county of the ultimate responsibility for indigent care pursuant to Section 17000 of the Welfare and Institutions Code.

(7) For purposes of Article 12 (commencing with Section 17612.1) of Chapter 6 of Part 5 of Division 9 of the Welfare and Institutions Code, and the definition set forth in subdivision (f) of Section 17612.2 of the Welfare and Institutions Code, the medical center, excluding components that provide predominately public health services, and the county are affiliated governmental entities.

(f) The board of supervisors may contract with the authority for the provision of indigent care services on behalf of the county. The contract shall specify that county policies, as may be modified from time to time and consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code, shall be applicable. Notwithstanding any other provision of this chapter, the authority shall not undertake any of the county's obligations under Section 17000 of the Welfare and Institutions Code, nor shall the authority have an entitlement to receive any revenue for the discharge of the county's obligations, without a written agreement with the county. ~~Any~~ *A* contract executed by and between the county and the authority shall provide for the indemnification of the county by the authority for liabilities as specifically set forth in the contract, except that the contract shall include a provision that the county ~~shall remain~~ *remains* liable for its own negligent acts. Indemnification by the authority ~~shall~~ *does* not divest the county from its ultimate responsibility for compliance with Section 17000 of the Welfare and Institutions Code.

(g) Unless otherwise agreed to by the authority and the board of supervisors, an obligation of the authority, statutory, contractual, or otherwise, ~~shall be~~ *is* the obligation solely of the authority and ~~shall~~ *is* not ~~be~~ the obligation of the county or any other entity, and ~~any~~ *a* contract executed by and between the county and the authority, or any other entity and the authority, shall contain a provision that liabilities or obligations of the authority with respect to its activities pursuant to the contract ~~shall be~~ *are* the liabilities or obligations of the authority and ~~shall not be or~~ *are not and will not* become the liabilities or obligations of the county or the other entity, respectively. An obligation of the authority, statutory, contractual, or otherwise, ~~shall~~ *is* not ~~be~~ the obligation of the state.

(h) The authority ~~shall~~ *is* not ~~be~~ a "person" subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(i) The authority is not subject to the jurisdiction of a local agency formation commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), or any successor statute.

(j) The authority is a "district" within the meaning set forth in the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). Employees of the authority are eligible to become members or maintain membership, as applicable, in the Kern County Employees' Retirement Association, to the extent described in subdivision (g) of Section 101853.1.

(k) ~~Any~~ *A* determination with respect to the manner in which the authority qualifies as a governmental plan sponsor under Section 414(d) of the Internal Revenue Code shall be limited to relevant employee benefits purposes of that code only, and shall not change or otherwise modify the authority's status as a public agency that is a unit of local government for other purposes specified in this chapter.

SEC. 332. Section 101853.1 of the Health and Safety Code is amended to read:

101853.1. (a) In exercising its powers to employ personnel, the authority shall implement, and the board of supervisors shall adopt, a personnel transition plan. The personnel transition plan shall require all of the following:

(1) Ongoing communication to employees and recognized employee organizations regarding the impact of the transition on existing medical center, county, and other health care facility employees and employee classifications.

(2) Meeting and conferring with representatives of affected bargaining unit employees on both of the following issues:

(A) A timeframe for which the transfer of personnel shall occur.

(B) Specified periods of time during which county or medical center employees affected by the establishment of the authority may elect to be considered for appointment and exercise reinstatement rights, if applicable, to funded, equivalent, vacant county positions for which they are qualified and eligible. An

employee who first elects to remain with the county may subsequently seek reinstatement with the authority within 30 days of the election to remain with the county and shall be subject to the requirements of this article.

(3) Acknowledgment that the authority, to the extent permitted by federal and state law, shall be bound by the terms of the memoranda of understanding executed between the county and its exclusive employee representatives that are in effect on the date the county adopts the enabling ordinance pursuant to this chapter. Subsequent memoranda of understanding with exclusive employee representatives shall be subject to approval only by the board of governors.

(4) Communication to the Board of Retirement of the Kern County Employees' Retirement Association or other retirement plan of any personnel transition plan, memoranda of understanding, or other arrangements that are related to the participation of the authority's employees or the addition of new employees in the retirement plan.

(b) Implementation of this chapter ~~shall~~ *is* not ~~be~~ a cause for the modification of the medical center or county employment benefits. Upon the execution of the enabling ordinance, employees of the medical center or county on the date of execution, who become authority employees, shall retain their existing or equivalent classifications and job descriptions upon transfer to the authority, comparable pension benefits (if permissible pursuant to relevant plan terms), and their existing salaries and other benefits that include, but are not limited to, accrued and unused vacation, sick leave, personal leave, health care, retiree health benefits, and deferred compensation plans. The transfer of an employee from the medical center or county ~~shall~~ *does* not constitute a termination of employment for purposes of Section 227.3 of the Labor Code, or employee benefit plans and arrangements maintained by the medical center or county, except as otherwise provided in the enabling ordinance or personnel transition plan, ~~nor shall it~~ *and it shall not* be counted as a break in uninterrupted employment for purposes of Section 31641 of the Government Code with respect to the Kern County Employees' Retirement Association, or state service for purposes of the Public Employees' Retirement System (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

(c) Subject to applicable state law, the authority shall recognize the exclusive employee representatives of those authority employees who are transferred from the county or medical center to the authority pursuant to this chapter.

(d) In order to stabilize labor and employment relations and provide continuity of care and services to the people of the county, and notwithstanding any other law, the authority shall do all of the following for a period of 24 months after the effective date of the transfer of the medical center to the authority:

(1) Continue to recognize each exclusive employee representative of each bargaining unit.

(2) Continue to provide the same level of employee benefits to authority employees, whether the obligation to provide those benefits arise out of a memorandum of understanding, or other agreements or law.

(3) Extend and continue to be bound by any existing memoranda of understanding covering the terms and conditions of employment for employees of the authority, including the level of wages and benefits, and any county rules, ordinances, or policies specifically identified and incorporated by reference in a memoranda of understanding for 24 months or through the term of the memorandum of understanding, whichever shall be the longer, unless modified by mutual agreement with each of the exclusive employee representatives. The authority shall continue to provide those pension benefits specified in any memoranda of agreement as long as doing so does not conflict with any Kern County Employee Retirement Association plan provisions, or federal or state law including the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code and the federal Internal Revenue Code).

(4) Meet and confer with the exclusive employee representatives to develop processes and procedures to address employee disciplinary action taken against permanent employees. If the authority terminates, suspends, demotes, or reduces the pay of a permanent employee for disciplinary reasons, those actions shall only be for cause consistent with state law, and an employee shall be afforded applicable due process protections granted to public employees under state law. Permanent employees laid off by the authority within six months of the date the ordinance is adopted

shall remain on the county reemployment list for two years. Inclusion on the county reemployment list is not a guarantee of reemployment. For the purposes of this paragraph, the term "permanent employees" excludes probationary employees, temporary employees, seasonal employees, provisional employees, extra help employees, and per diem employees.

(5) To the extent layoffs occur, and provided that all other previously agreed upon factors are equal, ensure that seniority shall prevail. The authority shall meet and confer with the exclusive employee representatives to address layoff procedures and the manner in which, and the extent to which, seniority shall be measured for employees who transfer from the medical center or county.

(e) Permanent employees of the medical center or county on the effective date of the transfer of the medical center to the authority, shall be deemed qualified for employment in equivalent positions at the authority, and no other qualifications shall be required except as otherwise required by state or federal law. Probationary employees on the effective date of the transfer, as set forth in this paragraph, shall retain their probationary status and rights and shall not be required to serve a new probationary or extend their probationary period by reason of the transfer. To the extent possible, employees who transfer to equivalent positions at the authority shall retain their existing classifications and job descriptions, but if there is a dispute over this issue, the authority agrees to meet and confer with the exclusive employee representatives of the transferred employees.

(f) Employees who transfer from the medical center or county to the authority shall retain the seniority they earned at the medical center or county and any benefits or privileges based on the seniority.

(g) Notwithstanding any other law, employees of the authority may participate in the Kern County Employees' Retirement Association, operated pursuant to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) as set forth below. However, the authority and employees of the authority, or certain designated parts thereof, shall not participate in the Kern County Employees' Retirement Association if the board of retirement, in its sole discretion, determines that their

participation could jeopardize the Kern County Employees' Retirement Association's tax-qualified or governmental plan status under federal law, or if a contract or related contract amendment proposed by the authority contains any benefit provisions that are not specifically authorized by Chapters 3 (commencing with Section 31450) and 3.9 (commencing with Section 31899) of Part 3 of Division 4 of Title 3 of the Government Code or Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code, and that the board determines would adversely affect the administration of the system. There shall not be any individual employee elections regarding participation in the Kern County Employees' Retirement Association or other retirement plans except to the extent ~~such~~ *the* retirement plans provide for elective employee salary deferral contributions in accordance with federal Internal Revenue Code rules.

(1) Employees transferred from the county or medical center to the authority who are subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall continue to be a member of the Kern County Employees' Retirement Association, retaining service credit earned to the date of transfer, to the extent provided for in the applicable memorandum of understanding.

(2) Employees transferred from the county or medical center to the authority who are subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were not members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall subsequently become a member of the Kern County Employees' Retirement Association only to the extent provided for in the applicable memorandum of understanding.

(3) Employees transferred from the county or medical center to the authority who are not subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were members of the Kern County Employees'

Retirement Association at the time of their transfer of employment, shall continue to be a member of the Kern County Employees' Retirement Association, retaining service credit earned to the date of transfer, as provided in the enabling ordinance or the personnel transition plan.

(4) Employees transferred from the county or medical center to the authority who are not subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were not members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall subsequently become a member of the Kern County Employees' Retirement Association only to the extent provided in the enabling ordinance or the personnel transition plan.

(5) Employees hired by the authority on or after the effective date of the enabling ordinance shall become a member of the Kern County Employees' Retirement Association only to the extent provided in the enabling ordinance or personnel transition plan described in subdivision (a), or, if subject to a memorandum of understanding between the authority and an exclusive employee representative as described in paragraphs (2) and (3) of subdivision (d), to the extent provided for in the applicable memorandum of understanding.

(6) Notwithstanding any other law, for purposes of *the* California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code), an individual who was employed by the county or the medical center when it was a constituent department of the county, and is a member of the Kern County Employees' Retirement Association or the Public Employees' Retirement System, as set forth in Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, prior to January 1, 2013, and who transfers, directly or after a break in service of less than six months, to the authority, in which the individual continues to be a member of either the Kern County Employees' Retirement Association or the Public Employees' Retirement System, as applicable, shall not be deemed to be a new employee or a new member within the meaning of Section 7522.04 of the Government Code, and shall continue to be subject to the same defined benefit formula, as defined in Section 7522.04 of

the Government Code, to which the member was subject immediately prior to the transfer.

(h) This chapter ~~shall~~ *does* not prohibit the authority from contracting with the Public Employees' Retirement System, in accordance with the requirements of Section 20508 and any other applicable provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, for the purpose of providing employee participation in that system, or from establishing an alternative or supplemental retirement system or arrangement, including, but not limited to, deferred compensation arrangements, to the extent permitted by law and subject to any applicable agreement between the authority and the exclusive employee representatives, and as provided in the enabling ordinance or the personnel transition plan. Notwithstanding any other law, the authority and employees of the authority shall not participate in the Public Employees' Retirement System if the Board of Administration of the Public Employees' Retirement System, in its sole discretion, determines that their participation could jeopardize the Public Employees' Retirement System's tax-qualified or governmental plan status under federal law, or if a contract or related contract amendment proposed by the authority contains any benefit provisions that are not specifically authorized by Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, and that the board determines would adversely affect the administration of the system.

(i) Provided that this is not inconsistent with anything in this chapter, this chapter does not prohibit the authority from determining the number of employees, the number of full-time equivalent positions, job descriptions, the nature and extent of classified employment positions, and salaries of employees.

SEC. 333. Section 101855 of the Health and Safety Code is amended to read:

101855. (a) The authority, in addition to any other powers granted pursuant to this chapter, ~~shall have~~ *has* the following powers:

(1) To have the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state.

(2) To have perpetual existence, subject to Article 5 (commencing with Section 101856).

(3) To adopt, have, and use a seal, and to alter it at its pleasure.

(4) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of real and personal property of any kind necessary or convenient to perform its functions and fully exercise its powers.

(6) To appoint and employ a chief executive officer and other officers and employees that may be necessary or appropriate, including legal counsel, to establish their compensation, provide for their health, retirement, and other employment benefits, and to define the power and duties of officers and employees.

(7) (A) To incur indebtedness and to borrow money and issue bonds evidencing the same, including the authority to issue, from time to time, notes and revenue bonds in principal amounts that the authority determines to be necessary to provide sufficient funds for achieving any of its purposes, including, but not limited to, assumption or refinancing of debt service for capital projects eligible for Medi-Cal supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions Code, or any successor or modified Medi-Cal debt service reimbursement program, the payment of interest on notes and bonds of the authority, the establishment of reserves to secure those notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers.

(B) Any notes, bonds, or other securities issued, and the income from them, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding the provisions of subparagraph (A), for any indebtedness, notes, bonds, or other securities that require voter approval pursuant to state law, the prior approval of the board of supervisors shall be required. Notwithstanding the required prior approval of the board of supervisors, any indebtedness incurred, or notes, bonds, or other securities issued pursuant to this subparagraph shall be the indebtedness, notes, bonds, or securities of the authority and not of the county, and the credit of the county shall not be pledged or relied upon in any manner in order to incur the indebtedness, or issue the notes, bonds, or other securities, unless the board of supervisors explicitly authorizes the use of the

county's credit. The authority shall reimburse the county for all costs associated with the county's consideration of the indebtedness, notes, bonds, or securities, and the authority shall defend, indemnify, and hold harmless the county from any and all liability, costs, or expenses arising from or related to the indebtedness, notes, bonds, or securities.

(D) ~~Nothing in this~~ *This* section ~~shall~~ *does not* preclude the authority from repayment of its debts or other liabilities, using funds that are not otherwise encumbered.

(8) To pursue its own credit rating.

(9) To enter into a contract or agreement consistent with this chapter or the laws of this state, including, but not limited to, contracting with any public or private entity or person for management or other services and personnel, and to authorize the chief executive officer to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this chapter.

(10) To purchase supplies, equipment, materials, property, and services.

(11) To establish policies relating to its purposes.

(12) To acquire or contract to acquire, rights-of-way, easements, privileges, and property, and to construct, equip, maintain, and operate any and all works or improvements wherever located that are necessary, convenient, or proper to carry out any of the provisions, objects, or purposes of this chapter, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.

(13) To participate in, contract for, and to accept, gifts, grants, and loans of funds, property, or other aid or finance opportunity in any form from the federal government, the state, a state agency, or other source, or combination thereof, as otherwise would be available to a public, government, or private entity, and to comply, subject to this chapter, with the terms and conditions thereof.

(14) To invest surplus money in its own treasury, manage investments, and engage third-party investment managers, in accordance with state law.

(15) To arrange for guarantees or insurance of its bonds, notes, or other obligations by the federal or state government or by a private insurer, and to pay the premiums thereof.

(16) To engage in managed care contracting, joint ventures, affiliations with other health care facilities, other health care providers and payers, management agreements, or to participate in alliances, purchasing consortia, health insurance pools, accountable care organizations, alternative delivery systems, or other cooperative arrangements, with any public or private entity.

(17) To enter into joint powers agreements pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Notwithstanding any other law, the authority may enter into a joint powers agreement as described in Section 6523.5 of the Government Code as though that section applied to hospitals and other health care facilities in the County of Kern.

(18) To establish nonprofit, for-profit, or other entities necessary to carry out the duties of the authority.

(19) To elect to transfer funds to the state and incur certified public expenditures in support of the Medi-Cal program and other programs for which federal financial participation is available.

(20) To use a computerized management information system, including an electronic health records system, in connection with its operations, including, without limitation, the administration of its facilities.

(21) To request that the board of supervisors levy a tax on behalf of the authority. If the board of supervisors approves the proposal to levy the tax, it shall call the election to seek voter approval and place the appropriate measure on the ballot for that election. The proceeds of these taxes shall be tax proceeds of the authority and not of the county. The authority shall reimburse the county for all costs associated with the county's consideration of those taxes, and shall defend, indemnify, and hold harmless the county from any liability, costs, or expenses arising from or related to the imposition of these taxes.

(22) Notwithstanding the provisions of this chapter relating to the obligations and liabilities of the authority, or any other law, a transfer of control or ownership of the medical center to the authority pursuant to this chapter shall confer onto the authority all the rights, privileges, and authority set forth in state law to own, operate, and provide coverage and services through hospitals, clinics and other health facilities, health programs, care organizations, physician practice plans, delivery systems, health

care service plans, and other coverage mechanisms that may be owned or operated by a county.

(23) To engage in other activities that may be in the best interests of the authority and the persons served by the authority, as determined by the board of governors, in order to respond to changes in the health care industry.

(b) The authority shall conform to the following requirements:

(1) (A) Be a government agency that is a local unit of government separate and apart for all purposes from the county and any other public entity, and shall not be considered to be an agency, division, or department of the county or any other public entity. The authority shall not be governed by or subject to the civil service requirements of the county. Except as otherwise provided for in the enabling ordinance consistent with this chapter, and as set forth in Section 101853.1 relating to the personnel transition plan, the authority ~~shall~~ *is* not ~~be~~ governed by, or subject to, other policies or operational rules of the county, medical center, or any other public entity, including, but not limited to, those relating to personnel and procurement.

(B) The board of governors shall adopt written rules, regulations, and procedures with regard to basic human resource functions not inconsistent with memoranda of understanding covering employees represented by employee organizations or the provisions of this chapter. Until the time that the board of governors adopts its own rules, regulations, or procedures with regard to these functions, the existing rules, regulations, and procedures set forth in any memoranda of understanding described in Section 101853.1, and the rules and regulations adopted by the county and described in paragraph (4), shall continue to apply.

(2) Be subject to state and federal taxation laws that are applicable to public entities generally.

(3) Except as otherwise specifically provided in this chapter, comply with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code), the *California* Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(4) Be subject to the jurisdiction of the Public Employment Relations Board. Until the authority adopts rules and regulations pursuant to subdivision (a) of Section 3507 of the Government Code, the existing rules adopted by the county and contained in the county's employer-employee relations resolution, as amended, shall apply, modified to account for the creation of the authority, and provided further that the resolution shall not contain any incorporation of the county's civil service rules or county ordinances unless specifically addressed in this chapter.

(5) Carry professional and general liability insurance or programs to the extent sufficient to cover its activities.

(6) Comply with the requirements of Sections 53260 and 53261 of the Government Code.

(7) Maintain financial and accounting records.

(8) Meet all local, state, and federal data reporting requirements.

(c) Subject to any restrictions applicable to public agencies, and subject to any limitations or conditions set forth in the enabling ordinance adopted by the board of supervisors, the authority may borrow money from the county, repay debt it owes to the county, and use the borrowed funds to provide for its operating and capital needs. The county may lend the authority funds or issue revenue anticipation notes to obtain those funds necessary to meet its operating or capital needs.

(d) Open sessions of the authority ~~shall~~ constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The privileges set forth in that section with respect to official proceedings ~~shall~~ apply to open sessions of the authority.

(e) (1) Notwithstanding any other law, the board of governors may order that a meeting held solely for the purpose of discussion or taking action on authority trade secrets, as defined in subdivision (d) of Section 3426.1 of the Civil Code, or to consider and take action on matters pertaining to contracts and contract negotiations concerning all matters related to rates of payment for health care services arranged or provided by the authority, shall be held in closed session. Trade secrets, for purposes of this ~~chapter shall~~ *chapter,* also include information for which the secrecy of the information is necessary for the authority to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product, and premature disclosure of the trade

secret would create a substantial probability of depriving the authority of a substantial economic benefit or opportunity.

(2) The requirements of making a public report of actions taken in closed session and the vote or abstention of every member present may be limited to a brief general description devoid of the information constituting the trade secret or concerning the matters related to rates of payment.

(3) ~~Those records~~ *Records* of the authority that reveal the authority's trade secrets are exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. This exemption shall apply for a period of two years after the service, program, marketing strategy, business plan, technology, benefit, or product that is the subject of the trade secret is formally adopted by the governing body of the authority, provided that the service, program, marketing strategy, business plan, technology, benefit, or product continues to be a trade secret. The board of governors may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session that are provided to persons who have made the timely or standing request.

(4) This chapter ~~shall~~ *does* not prevent the board of governors from meeting in closed session as otherwise provided by law.

(f) Notwithstanding any other law, those records of the authority and of the county that reveal the authority's rates of payment for health care services arranged or provided by the authority or its deliberative processes, strategies, discussions, communications, or any other portion of the negotiations with providers of health care services or Medi-Cal, health care plans, or other payers for rates of payment, shall not be required to be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. However, three years after a contract or amendment to a contract is fully executed, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(g) The authority ~~shall be~~ *is* a public agency that is a local unit of government for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to

the authority ~~shall be~~ *are* tax deductible to the extent permitted by state and federal law. Nonproprietary income of the authority ~~shall be~~ *is* exempt from state income taxation.

(h) Unless otherwise provided by the board of supervisors by way of resolution, the authority is empowered, or the board of supervisors is empowered on behalf of the authority, to apply as a public agency for one or more licenses for the provision of health care or the operation of a health care service plan pursuant to statutes and regulations governing licensing as currently written or subsequently amended.

(i) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other providers into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, ~~shall~~ apply to the authority and the board of governors.

(j) (1) Except as otherwise provided in this chapter, provisions of the Evidence Code, the Government Code, including the *California* Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies ~~shall~~ apply to the peer review activities of the authority, or any peer review body, as defined in paragraph (1) of subdivision (a) of Section 805 of the Business and Professions Code, formed pursuant to the powers granted to the authority. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of law, any peer review body formed pursuant to the powers granted to the authority, may, at its discretion and without notice to the public, meet in closed session, so long as the purpose of the meeting is the peer review body's discharge of its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The peer review body and its members shall

receive, to the fullest extent, all immunities, privileges, and protections available to those peer review bodies, their individual members, and persons or entities assisting in the peer review process, including those afforded by Section 1157 of the Evidence Code and Section 1370. Peer review proceedings shall constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings shall apply to peer review proceedings of the authority.

(3) Notwithstanding the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of state or local law requiring disclosure of public records, those records of a peer review body formed pursuant to the powers granted to the authority, shall not be required to be disclosed. The records and proceedings of the peer review body and its individual members shall receive, to the fullest extent, all immunities, privileges, and protections available to those records and proceedings, including those afforded by Section 1157 of the Evidence Code and Section 1370 ~~of the Health and Safety Code~~.

(4) If the authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission ~~shall~~ *does* not constitute a waiver of confidentiality.

(5) Notwithstanding any other law, Section 1461 ~~shall apply~~ *applies* to hearings on reports of hospital medical audit or quality assurance committees.

(k) Except as expressly provided by other provisions of this section, all exemptions and exclusions from disclosure as public records pursuant to this chapter and the California Public Records Act, including, but not limited to, those pertaining to trade secrets and information withheld in the public interest, ~~shall be~~ *are* fully applicable to the authority, and for the board of supervisors, and all state and local agencies with respect to all writings that the authority is required to prepare, produce, or submit, and which shall not constitute a waiver of exemption from disclosure.

(*l*) The authority and the county, or any combination thereof, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community by the authority.

(m) The board of governors ~~shall have~~ *has* authority over procurement and contracts for the authority. The board of governors shall adopt written rules, regulations, and procedures with regard to these functions. Contracts by and between the authority and a public agency, and contracts by and between the authority and providers of health care, goods, or services, may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(n) The authority may contract with the county for services and personnel upon mutually agreeable terms.

(o) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, related to incompatible activities, Section 1099 of the Government Code, related to incompatible offices, or any other law, a member of the authority's administrative staff shall not be considered to hold an incompatible office or to be engaged in activities inconsistent and incompatible with his or her duties as a result of his or her employment or affiliation with the county or an agency of the county.

(p) The board of governors and the officers and employees of the authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees, and shall be protected by the immunities applicable to public entities and public employees governed by Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the authority.

SEC. 334. Section 101855.1 of the Health and Safety Code is amended to read:

101855.1. (a) Transfer by the county to the authority of the maintenance, operation, and management or ownership of the medical center, whether or not the transfer includes the surrendering by the county of the existing general acute care hospital license and corresponding application for a change of ownership of the license, ~~shall~~ *does* not affect the eligibility of the

county to undertake, and ~~shall authorize~~ *authorizes* the authority, subject to applicable requirements, to do any of the following:

(1) With the written consent of the county, participate in and receive allocations pursuant to the California Health Care for Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code, or similar programs, as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(2) With the written consent of the county, participate in and receive allocations of local revenue fund amounts provided pursuant to Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(3) Participate in the financing of, as applicable, and receive, Medicaid disproportionate share hospital payments available to a county hospital or designated public hospital, or any other successor or modified payment or funding that is intended to assist hospitals that serve a disproportionate share of low-income patients with special needs. The allocation of Medicaid disproportionate share hospital payments shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(4) Participate in the financing of, as applicable, and receive, Medi-Cal payments and supplemental reimbursements, including, but not limited to, payments made pursuant to Sections 14105.96, 14105.965, 14166.4, 14182.15, and 14199.2 of the Welfare and Institutions Code, payments described in paragraph (4) of subdivision (b) of Section 14301.4 of, and Section 14301.5 of, the Welfare and Institutions Code, and payments made available to a county provider or designated public hospital, or governmental entity with which it is affiliated, under any other successor or modified Medicaid payment system.

(5) Participate in the financing of, as applicable, and receive, safety net care pool funding, stabilization funding, delivery system reform incentive pool payments, and any other funding available to a county provider or designated public hospital, or governmental entities with which it is affiliated under the Medicaid demonstration project authorized pursuant to Article 5.2 (commencing with

Section 14166) and Article 5.4 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system. The allocation of safety net care pool funds shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(6) Participate in the financing, administration, and provision of services under the Low Income Health Program authorized pursuant to Part 3.6 (commencing with Section 15909) of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system if the authority enters into an agreement with the county concerning the provision of services by, and payment for these services to, the county.

(7) Participate in and receive direct grant and payment allocations pursuant to Article 5.230 (commencing with Section 14169.50) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified direct grant and payment systems funded by hospital or other provider fee assessments.

(8) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code, or any other successor or modified Medi-Cal debt service reimbursement program. Notwithstanding any other law, supplemental payments shall be made to the medical center under those programs for the debt service costs incurred by the county, and, if applicable, by the authority to the extent that debt service responsibility is refinanced, transferred to, or otherwise assumed by, directly or indirectly, the authority.

(9) Receive any other funds, or preference in the assignment of health care plan enrollees, that would otherwise be available to a county health plan, provider, or designated public hospital, or governmental entity with which it is affiliated.

(b) The transfer of the medical center to the authority pursuant to this chapter ~~shall~~ *does* not otherwise disqualify the county or the authority from participating in any of the following:

(1) Local, state, and federal funding sources either specific to county or other publicly owned or operated health care service plans, hospitals, or other health care providers, including, but not

limited to, ambulatory care clinics, health systems, practices, designated public hospitals, or governmental entities with which they are affiliated, for which there are special provisions specific to those plans, hospitals, ambulatory care clinics, health systems, practices, other health care providers or governmental entities with which they are affiliated.

(2) All funding programs in which the county, by itself or on behalf of the medical ~~center~~ *center,* had participated prior to the creation of the authority, or would otherwise be qualified to participate in had the authority not been created, and the maintenance, operation, and management or ownership of the medical center not been transferred to the authority pursuant to this chapter.

SEC. 335. Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code, as added by Section 2 of Chapter 925 of the Statutes of 1997, is repealed.

SEC. 336. Section 102430 of the Health and Safety Code, as added by Section 7 of Chapter 334 of the Statutes of 2014, is amended to read:

102430. (a) The second section of the certificate of live birth as specified in subdivision (b) of Section 102425, the electronic file of birth information collected pursuant to subparagraphs (B) to (F), inclusive, of paragraph (2) of subdivision (a) of Section 102426, the birth mother linkage collected pursuant to Section 102425.2, and the second section of the certificate of fetal death as specified in Section 103025, ~~shall be~~ *are* confidential. Access to the confidential portion of any certificate of live birth or fetal death, the electronic file of birth information collected pursuant to subparagraphs (B) to (F), inclusive, of paragraph (2) of subdivision (a) of Section 102426, and the birth mother linkage collected pursuant to Section 102425.2 shall be limited to the following:

(1) Department staff.

(2) Local registrar's staff and local health department staff when approved by the local registrar or local health officer, respectively.

(3) The county coroner.

(4) Persons with a valid scientific interest as determined by the State Registrar, who are engaged in demographic, ~~epidemiological~~ *epidemiological,* or other similar studies related to health, and who

agree to maintain confidentiality as prescribed by this part and by regulation of the State Registrar.

(5) The parent who signed the certificate or, if no parent signed the certificate, the mother.

(6) The person named on the certificate.

(7) ~~Any~~ *A* person who has petitioned to adopt the person named on the certificate of live birth, subject to Section 102705 of the Health and Safety Code and Sections 9200 and 9203 of the Family Code.

(b) (1) The department shall maintain an accurate record of all persons who are given access to the confidential portion of the certificates. The record shall include all of the following:

(A) The name of the person authorizing access.

(B) The name, title, and organizational affiliation of persons given access.

(C) The dates of access.

(D) The specific purpose for which *the* information is to be used.

(2) The record of access shall be open to public inspection during normal operating hours of the department.

(c) All research proposed to be conducted using the confidential medical and social information on the birth certificate or fetal death certificate shall first be reviewed by the appropriate committee constituted for the protection of human subjects that is approved by the federal Department of Health and Human Services and has a general assurance pursuant to Part 46 of Title 45 of the Code of Federal Regulations. Information shall not be released until the request for information has been reviewed by the Vital Statistics Advisory Committee and the committee has recommended to the State Registrar that the information shall be released.

(d) This section shall become operative on January 1, 2016.

SEC. 337. The heading of Chapter 2 (commencing with Section 104145) of Part 1 of Division 103 of the Health and Safety Code is amended to read:

CHAPTER 2. CANCER ~~(RESERVED)~~

SEC. 338. Section 111825 of the Health and Safety Code is amended to read:

111825. (a) ~~Any~~ *A* person who violates ~~any~~ *a* provision of this part or ~~any~~ *a* regulation adopted pursuant to this part shall, if convicted, be subject to imprisonment for not more than one year in a county jail or a fine of not more than one thousand dollars ($1,000), or both the imprisonment and fine.

(b) Notwithstanding subdivision (a), ~~any~~ *a* person who violates Section 111865 by removing, selling, or disposing of an embargoed food, drug, device, or cosmetic without the permission of an authorized agent of the department or court shall, if convicted, be subject to imprisonment for not more than one year in a county jail or a fine of not more than ten thousand dollars ($10,000), or both the fine and imprisonment.

(c) (1) Notwithstanding subdivision (a), ~~any~~ *a* person who purchases or sells a foreign dangerous drug or medical device, an illegitimate product, as defined in Section 360eee(8) of Title 21 of the United States Code, or *a* suspect product, as defined in Section 360eee(21) of Title 21 of the United States Code, that is not approved or otherwise authorized by the United States Food and Drug Administration or that is obtained outside of the licensed supply chain regulated by the United States Food and Drug Administration, California State Board of Pharmacy, or State Department of Public Health is guilty of a misdemeanor and subject to imprisonment for not more than one year in a county jail, a fine of not more than ten thousand dollars ($10,000) per occurrence, or both the imprisonment and fine.

(2) This subdivision does not apply to those individuals determined by the United States Food and Drug Administration to have acted in compliance with the requirements under Part H (commencing with Section 360eee) of Subchapter V of Chapter 9 of Title 21 of the United States Code with regard to the illegitimate or suspect products.

(d) If the violation is committed after a previous conviction under this section that has become final, or if the violation is committed with intent to defraud or mislead, or if the person committed a violation of Section 110625 or 111300 that was intentional or that was intended to cause injury, the person shall be subject to imprisonment for not more than one year in a county jail, imprisonment in the state prison, or a fine of not more than ten thousand dollars ($10,000), or both the imprisonment and fine.

(e) This section does not preclude punishment under any other law that provides for a greater punishment.

SEC. 339. Section 115880 of the Health and Safety Code is amended to read:

115880. (a) The department shall, by regulation and in consultation with the board, local health officers, and the public, establish, maintain, and amend as necessary, minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

(b) Prior to final adoption or amendment by the department, the regulations and standards required by this section shall undergo an external comprehensive review process similar to the process set forth in Section 57004 ~~of the Health and Safety Code~~.

(c) The regulations shall, at a minimum, do all of the following:

(1) Require the testing of the waters adjacent to all public beaches for microbiological contaminants, including, but not limited to, total coliform, fecal coliform, and enterococci bacteria. The department may require the testing of waters adjacent to all public beaches for microbiological indicators other than those set forth in this paragraph, or a subset of those set forth in this paragraph, if the department affirmatively establishes, based on the best available scientific studies and the weight of the evidence, that the alternative indicators are as protective of the public health.

(2) Establish protective minimum standards for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1).

(3) Require that the waters adjacent to public beaches are tested for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1). Except as set forth in subdivision (e), testing shall be conducted on at least a weekly basis from April 1 to October 31, inclusive, of each year beginning in 2012, if both of the following apply:

(A) The beach is visited by more than 50,000 people annually.

(B) The beach is located on an area adjacent to a storm drain that flows in the summer.

(d) Notwithstanding subdivision (a), if a local health officer demonstrates or has demonstrated through side-by-side testing

over a beach season that the use of United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, to determine the level of enterococci bacteria as a single indicator provides a reliable indication of overall microbiological contamination conditions at one or more beach locations within that health officer's jurisdiction, the department may authorize the use of that testing method at those beach locations instead of other testing methods. In making that determination, the department shall take into account whether an alternative indicator or subset of indicators, with the associated test method, can provide results more quickly, thereby reducing the period of time the public is at risk while waiting for contamination to be confirmed.

(e) The monitoring frequency and locations established pursuant to this section and related regulations may be reduced or altered only after the testing required pursuant to paragraph (3) of subdivision (c) reveals levels of microbiological contaminants that do not exceed, for a period of two years, the minimum protective standards established pursuant to this section.

(f) The local health officer ~~shall be~~ *is* responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

(g) The local health officer may meet the testing requirements of this section by utilizing test results from other parties conducting microbiological contamination testing of the waters under his or her jurisdiction.

(h) This section does not require a wastewater treatment agency or other party conducting microbiological contamination testing of the waters under his or her jurisdiction, who provides those test results to a local health officer pursuant to this section, to use United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, for total maximum daily load implementation, waste discharge requirements, or other monitoring

programs required to be implemented pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(i) Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the department pursuant to this section.

SEC. 340. Section 116283 of the Health and Safety Code, as amended by Section 11 of Chapter 298 of the Statutes of 2009, is repealed.

~~116283. This chapter shall apply to a food facility that is regulated pursuant to the California Retail Food Code only if the human consumption includes drinking of water.~~

SEC. 341. Section 116612 of the Health and Safety Code, as added by Section 11 of Chapter 814 of the Statutes of 1997, is repealed.

~~116612. On or before January 1, 1999, the California Drinking Water and Toxic Enforcement Act Scientific Advisory Panel shall make a recommendation to the Office of Environmental Health Hazard Assessment on whether MTBE should be listed as a carcinogenic or reproductive toxin, as set forth in Section 12000 and following of Title 22 of the California Code of Regulations.~~

SEC. 342. Section 116612 of the Health and Safety Code, as added by Section 3 of Chapter 815 of the Statutes of 1997, is amended to read:

116612. On or before January 1, 1999, the California Drinking Water and Toxic Enforcement Act ~~Scientific Advisory Panel~~ *scientific advisory panel* shall make a recommendation to the Office of Environmental Health Hazard Assessment on whether MTBE should be listed as a carcinogenic or reproductive toxin as set forth in ~~Section 12000 and following of Title 22~~ *Chapter 1 (commencing with Section 25102) of Division 4 of Title 27* of the California Code of Regulations.

SEC. 343. Section 119316 of the Health and Safety Code is amended to read:

119316. (a) A mobile body art facility shall meet all the applicable requirements in Article 1 (commencing with Section 119300) to Article 4 (commencing with Section 119312), ~~inclusive~~ *inclusive,* and Article 6 (commencing with Section 119319), unless specifically exempted by this article.

(b) A mobile body art facility that is either a special purpose commercial modular and coach, as defined by Section 18012.5,

or a commercial modular coach, as defined by Section 18001.8, shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13, and regulations promulgated pursuant to that chapter.

(c) The Department of Motor Vehicles occupational licensing requirements, Division 5 (commencing with Section 11100) of the Vehicle Code, ~~shall~~ also apply to these mobile body art facilities.

(d) The local enforcement agency shall approve all equipment installation prior to operation.

SEC. 344. Section 120155 of the Health and Safety Code, as amended by Section 174 of Chapter 130 of the Statutes of 2007, is amended and renumbered to read:

~~120155.~~

120160. (a) Any manufacturer or distributor of the influenza vaccine, or nonprofit health care service plan that exclusively contracts with a single medical group in a specified geographic area to provide, or to arrange for the provision of, medical services to its enrollees, shall report the information described in subdivision (c) relating to the supply of the influenza vaccine to the department upon notice from the department.

(b) Within each county or city health jurisdiction, entities that have possession of, or have a legal right to obtain possession of, the influenza vaccine, or entities that are conducting or intend to conduct influenza clinics for the public, their residents, or their employees, except those entities described in subdivision (a), shall cooperate with the local health officer in determining local inventories of influenza vaccine, including providing inventory, orders, and distribution lists in a timely manner, when necessary.

(c) The information reported pursuant to subdivision (a) shall include, but is not limited to, the amount of the influenza vaccine that has been shipped, and the name, address, and, if applicable, the telephone number of the recipient.

(d) Subdivisions (a), (b), and (c) ~~shall~~ *do* not apply to a physician and surgeon practice, unless the practice is an occupational health provider who conducts influenza vaccination campaigns on behalf of a corporation.

(e) It is the intent of the Legislature in enacting this section to assist small physician and surgeon practices, nursing facilities, and other health care providers that provide care for patients at risk of

illness or death from influenza by facilitating the sharing of vaccine supplies, if necessary, between providers within a local jurisdiction.

(f) If a business believes that the information required by this section involves the release of a trade secret, the business shall nevertheless disclose the information to the department, and shall notify the department in writing of that belief at the time of disclosure. As used in this section, "trade secret" has the meanings given to it by Section 6254.7 of the Government Code and Section ~~1060~~ *1061* of the Evidence Code. Any information, including identifying information, including, but not limited to, the name of the agent or contact person of an entity that receives the influenza vaccine from a manufacturer or distributor, or nonprofit health care service plan described in subdivision (a), and the receiving entity's address and telephone number, that is reported pursuant to this section shall not be disclosed by the department to anyone, except to an officer or employee of the county, city, city and county, or the state in connection with the official duties of that officer or employee to protect the public health.

SEC. 345. Section 120393 of the Health and Safety Code is amended to read:

120393. (a) The State Department of Public Health shall post educational information, in accordance with the latest recommendations of the *federal* Centers for Disease Control and Prevention, regarding influenza disease and the availability of influenza vaccinations on the department's Internet Web site. It is the intent of the Legislature to increase the average number of Californians who receive an influenza vaccination.

(b) The educational information posted on the department's Internet Web site pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) The health benefits of an influenza vaccination.

(2) That the influenza vaccination may be a covered benefit for those with health insurance coverage.

(3) That influenza vaccinations may be available for a minimal fee to those individuals who do not have health insurance coverage.

(4) The locations where free or low-cost vaccinations are available.

(c) The department may use additional available resources to educate the public about the information described in subdivision (b), including public service announcements, media events, public

outreach to individuals and groups who are susceptible to influenza, and any other preventive and wellness education efforts recommended by public health officials.

SEC. 346. 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~~ *are* 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 (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) Any disclosures authorized by subdivision (a), (b), or this subdivision shall include only the information necessary for the purpose of that disclosure and shall be made only upon the agreement that the information will be kept confidential as described in subdivision (a). Except as provided in paragraphs (1) to (3), inclusive, or as otherwise provided by law, any disclosure authorized by subdivision (a) or (b) shall not be made without written authorization as described in subdivision (a). Any unauthorized further disclosure shall be subject to the penalties described in subdivision (e).

(1) Notwithstanding any other law, the following disclosures ~~shall be~~ *are* authorized for the purpose of enhancing the completeness of reporting to the federal Centers for Disease Control and Prevention (CDC) of HIV/AIDS and coinfection with tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, and meningococcal infection:

(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.

(D) For purposes of the investigation, control, or surveillance of HIV and its coinfection with hepatitis B, hepatitis C, and meningococcal infection, local public health agency communicable disease staff may further disclose the information to state public health agency 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).

(2) Notwithstanding any other law, the following disclosures ~~shall be~~ *are* 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.

(C) Local public health agency staff may further disclose acquired or developed 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.

(3) Notwithstanding any other law, for the purpose of facilitating appropriate medical care and treatment of persons coinfected with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, or meningococcal infection, local public health agency sexually transmitted disease control, communicable disease control, and tuberculosis control staff may further disclose the information to state or local public health agency sexually transmitted disease control, communicable 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, hepatitis B, hepatitis C, meningococcal infection, and sexually transmitted disease care.

(4) For the purposes of paragraphs (2) and (3), "staff" ~~shall~~ *does* not include nongovernmental entities, but shall include state and local contracted employees who work within state and local public health departments.

(d) A confidential public health record, as defined in subdivision (c) of Section 121035, shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e) (1) A person who negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a 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. The penalty and costs shall be paid to the person whose record was disclosed.

(2) A person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to a 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. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(3) A person who willfully, maliciously, or negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a 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 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. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(4) A person who commits an act described in paragraph (1), (2), or ~~(3), shall be~~ *(3) is* 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) This section does not limit or expand 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,~~ *employability* or insurability of a person.

SEC. 347. Section 123223 of the Health and Safety Code is amended to read:

123223. (a) The Children's Medical Services Rebate Fund is hereby created as a special fund in the State Treasury.

(b) All rebates for the delivery of health care, medical supplies, pharmaceuticals, including blood replacement products, and equipment for clients enrolled in the state funded Genetically Handicapped ~~Person's~~ *Persons* Program, Chapter 2 (commencing with Section 125125) of Part 5, and the California Children's

Services Program, Article 5 (commencing with Section 123800) of Chapter 3 of Part 2, and, notwithstanding Section 16305.7 of the Government Code, interest earned on these moneys, shall be deposited in the Children's Medical Services Rebate Fund exclusively to cover costs related to services, and the administration of services, provided through the Genetically Handicapped ~~Person's~~ *Persons* Program and California Children's Services Program.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the Children's Medical Services Rebate Fund ~~shall be~~ *are* continuously appropriated without regard to fiscal year to the State Department of Health *Care* Services and available for expenditure for those purposes specified under this section.

SEC. 348. Section 124995 of the Health and Safety Code is amended to read:

124995. The following programs shall comply with the regulations established pursuant to the Hereditary Disorders ~~Act (Section 27):~~ *Act, as defined in Section 27:*

(a) The California Children's Services Program under Article 5 (commencing with Section 123800) of Chapter 3 of Part 2.

(b) Prenatal testing programs for newborns under Sections 125050 to 125065, inclusive.

(c) Medical testing programs for newborns under the Maternal and Child Health Program ~~Act (Section 27).~~ *Act, as defined in Section 27.*

(d) Programs of the genetic disease unit under Section 125000.

(e) Child health *and* disability prevention programs under Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 and Section 120475.

(f) Genetically ~~handicapped person's programs~~ *Handicapped Persons Program* under Article 1 (commencing with Section 125125) of Chapter 2.

(g) Medi-Cal Benefits Program under Article 4 (commencing with Section 14131) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 349. Section 125125 of the Health and Safety Code is amended to read:

125125. This article shall be known and may be cited as the Holden-Moscone-Garamendi Genetically Handicapped ~~Person's~~ *Persons* Program.

SEC. 350. Section 125130 of the Health and Safety Code is amended to read:

125130. *(a)* The Director of Health Care Services shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, Friedreich's Ataxia, Joseph's disease, Von Hippel-Landau syndrome, and the following hereditary metabolic disorders: phenylketonuria, homocystinuria, branched chain amino acidurias, disorders of propionate and methylmalonate metabolism, urea cycle disorders, hereditary orotic aciduria, Wilson's Disease, galactosemia, disorders of lactate and pyruvate metabolism, tyrosinemia, hyperornithinemia, and other genetic organic acidemias that require specialized treatment or service available from only a limited number of program-approved sources.

~~The~~

(b) The program shall also provide access to social support services, that may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions, in order that the genetically handicapped person may function at an optimal level commensurate with the degree of impairment.

~~The~~

(c) The medical and social support services may be obtained through physicians and surgeons~~, genetically handicapped person's program~~ *Genetically Handicapped Persons Program* specialized centers, and other providers that qualify pursuant to the regulations of the department to provide the services. "Medical care," as used in this section, is limited to noncustodial medical and support services.

~~The~~

(d) The director shall adopt regulations that are necessary for the implementation of this article.

SEC. 351. Section 125160 of the Health and Safety Code is amended to read:

125160. The department shall receive and expend all funds made available to it by the federal government, the state, its political subdivisions or from other sources for the purposes of this article. Payment for ~~genetically handicapped person's program~~

the Genetically Handicapped Persons Program shall be made by the department.

SEC. 352. Section 125175 of the Health and Safety Code is amended to read:

125175. The health care benefits and services specified in this article, to the extent that the benefits and services are neither provided under any other federal or state law nor provided nor available under other contractual or legal entitlements of the person, shall be provided to any patient who is a resident of this state and is made eligible by this article. After the patient has utilized the contractual or legal entitlements, the payment liability under ~~Section 125165 or Section 125166, whichever shall be applicable at the time,~~ *Section 125166* shall then be applied to the remaining cost of genetically handicapped ~~person's~~ *persons'* services.

SEC. 353. Section 125190 of the Health and Safety Code is amended to read:

125190. Notwithstanding any other ~~provision of~~ law, the department is considered to be the purchaser, but not the dispenser or distributor, of blood factor products under the Genetically Handicapped ~~Person's~~ *Persons* Program. The department may receive manufacturers' discounts, rebates, or refunds based on the quantities purchased under the Genetically Handicapped ~~Person's~~ *Persons* Program. The discounts, rebates, or refunds received pursuant to this section shall be separate from any agreements for discounts, rebates, or refunds negotiated pursuant to Section 14105.3 of the Welfare and Institutions Code or any other program.

SEC. 354. Section 125191 of the Health and Safety Code is amended to read:

125191. (a) The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under the Genetically Handicapped ~~Person's~~ *Persons* Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other ~~provision of~~ state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. ~~Nothing in this~~ *This* subdivision ~~shall~~ *does not* interfere with the usual and customary distribution practices of factor replacement

therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be entered into on a negotiated basis and ~~shall be~~ *is* exempt from 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. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) (1) Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest ~~shall~~ *does* not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2) Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and calculations set forth in the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(c) If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. This subdivision does

not limit the department's right to otherwise terminate a contract in accordance with the terms of that contract.

(d) The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be entered into on a negotiated basis and shall be exempt from 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.

(e) The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. ~~Nothing in this~~ *This* subdivision shall *not* be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

SEC. 355. The heading of Part 8 (commencing with Section 125700) of Division 106 of the Health and Safety Code is amended to read:

PART 8. ADULT HEALTH ~~(RESERVED)~~

SEC. 356. Chapter 4 (commencing with Section 128200) of Part 3 of Division 107 of the Health and Safety Code, as added by Section 9 of Chapter 415 of the Statutes of 1995, is repealed.

SEC. 357. The heading of Article 4 (commencing with Section 128454) of Chapter 5 of Part 3 of Division 107 of the Health and Safety Code, as added by Section 5 of Chapter 437 of the Statutes of 2003, is amended and renumbered to read:

Article ~~4.~~*3.5.* Licensed Mental Health Service Provider Education Program

SEC. 358. Section 130060 of the Health and Safety Code is amended to read:

130060. (a) (1) After January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life shall only be used for nonacute care hospital purposes, unless an extension of this deadline has been granted and either of the following occurs before the end of the extension:

(A) A replacement building has been constructed and a certificate of occupancy has been granted by the office for the replacement building.

(B) A retrofit has been performed on the building and a construction final has been obtained by the office.

(2) An extension of the deadline may be granted by the office upon a demonstration by the owner that compliance will result in a loss of health care capacity that may not be provided by other general acute care hospitals within a reasonable proximity. In its request for an extension of the deadline, a hospital shall state why the hospital is unable to comply with the January 1, 2008, deadline requirement.

(3) Prior to granting an extension of the January 1, 2008, deadline pursuant to this section, the office shall do all of the following:

(A) Provide public notice of a hospital's request for an extension of the deadline. The notice, at a minimum, shall be posted on the office's Internet Web site, and shall include the facility's name and identification number, the status of the request, and the beginning and ending dates of the comment period, and shall advise the public of the opportunity to submit public comments pursuant to subparagraph (C). The office shall also provide notice of all requests for the deadline extension directly to interested parties upon request of the interested parties.

(B) Provide copies of extension requests to interested parties within 10 working days to allow interested parties to review and provide comment within the 45-day comment period. The copies shall include those records that are available to the public pursuant to the California Public Records Act (Chapter 3.5 (commencing

with Section 6250) of Division 7 of Title 1 of the Government Code).

(C) Allow the public to submit written comments on the extension proposal for a period of not less than 45 days from the date of the public notice.

(b) (1) It is the intent of the Legislature, in enacting this subdivision, to facilitate the process of having more hospital buildings in substantial compliance with this chapter and to take nonconforming general acute care hospital inpatient buildings out of service more quickly.

(2) The functional contiguous grouping of hospital buildings of a general acute care hospital, each of which provides, as the primary source, one or more of the hospital's eight basic services as specified in subdivision (a) of Section 1250, may receive a five-year extension of the January 1, 2008, deadline specified in subdivision (a) of this section pursuant to this subdivision for both structural and nonstructural requirements. A functional contiguous grouping refers to buildings containing one or more basic hospital services that are either attached or connected in a way that is acceptable to the State Department of Health Care Services. These buildings may be either on the existing site or a new site.

(3) To receive the five-year extension, a single building containing all of the basic services or at least one building within the contiguous grouping of hospital buildings shall have obtained a building permit prior to 1973 and this building shall be evaluated and classified as a nonconforming, Structural Performance Category-1 (SPC-1) building. The classification shall be submitted to and accepted by the Office of Statewide Health Planning and Development. The identified hospital building ~~shall be~~ *is* exempt from the requirement in subdivision (a) until January 1, 2013, if the hospital agrees that the basic service or services that were provided in that building shall be provided, on or before January 1, 2013, as follows:

(A) Moved into an existing conforming Structural Performance Category-3 (SPC-3), Structural Performance Category-4 (SPC-4), or Structural Performance Category-5 (SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-Structural Performance Category-5 (NPC-5) building.

(B) Relocated to a newly built compliant SPC-5 and NPC-4 or NPC-5 building.

(C) Continued in the building if the building is retrofitted to a SPC-5 and NPC-4 or NPC-5 building.

(4) A five-year extension is also provided to a post-1973 building if the hospital owner informs the Office of Statewide Health Planning and Development that the building is classified as SPC-1, SPC-3, or SPC-4 and will be closed to general acute care inpatient service use by January 1, 2013. The basic services in the building shall be relocated into a SPC-5 and NPC-4 or NPC-5 building by January 1, 2013.

(5) SPC-1 buildings, other than the building identified in paragraph (3) or (4), in the contiguous grouping of hospital buildings ~~shall~~ *is* also ~~be~~ exempt from the requirement in subdivision (a) until January 1, 2013. However, on or before January 1, 2013, at a minimum, each of these buildings shall be retrofitted to a SPC-2 and NPC-3 building, or no longer be used for general acute care hospital inpatient services.

(c) On or before March 1, 2001, the office shall establish a schedule of interim work progress deadlines that hospitals shall be required to meet to be eligible for the extension specified in subdivision (b). To receive this extension, the hospital building or buildings shall meet the year 2002 nonstructural requirements.

(d) A hospital building that is eligible for an extension pursuant to this section shall meet the January 1, 2030, nonstructural and structural deadline requirements if the building is to be used for general acute care inpatient services after January 1, 2030.

(e) Upon compliance with subdivision (b), the hospital shall be issued a written notice of compliance by the office. The office shall send a written notice of violation to hospital owners that fail to comply with this section. The office shall make copies of these notices available on its Internet Web site.

(f) (1) A hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision (a) or (b) may request an additional extension of up to two years for a hospital building that it owns or operates and that meets the criteria specified in paragraph (2), (3), or (5).

(2) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital building is under construction at the time of the request for extension under this subdivision and the purpose of the construction is to meet the requirements of subdivision (a)

to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b).

(B) The hospital building plans were submitted to the office and were deemed ready for review by the office at least four years prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital received a building permit for the construction described in subparagraph (A) at least two years prior to the applicable deadline for the building.

(D) The hospital submitted a construction timeline at least two years prior to the applicable deadline for the building demonstrating the hospital's intent to meet the applicable deadline. The timeline shall include all of the following:

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

(E) The hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D), but factors beyond the hospital's control make it impossible for the hospital to meet the deadline.

(3) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital building is owned by a health care district that has, as owner, received the extension of the January 1, 2008, deadline, but ~~where~~ the hospital is operated by an unaffiliated third-party lessee pursuant to a facility lease that extends at least through December 31, 2009. The district shall file a declaration with the office with a request for an extension stating that, as of the date of the filing, the district has lacked, and continues to lack, unrestricted access to the subject hospital building for seismic planning purposes during the term of the lease, and that the district is under contract with the county to maintain hospital services when the hospital comes under district control. The office shall not grant the extension if an unaffiliated third-party lessee will operate the hospital beyond December 31, 2010.

(B) The hospital building plans were submitted to the office and were deemed ready for review by the office at least four years

prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital received a building permit for the construction described in subparagraph (B) by December 31, 2011.

(D) The hospital submitted, by December 31, 2011, a construction timeline for the building demonstrating the hospital's intent and ability to meet the deadline of December 31, 2014. The timeline shall include all of the following:

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

(E) The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F) The hospital granted an extension pursuant to this paragraph shall submit an additional status report to the office, equivalent to that required by subdivision (c) of Section 130061, no later than June 30, 2013.

(4) An extension granted pursuant to paragraph (3) ~~shall be~~ *is* applicable only to the health care district applicant and its affiliated hospital while the hospital is operated by the district or an entity under the control of the district.

(5) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital owner submitted to the office, prior to June 30, 2009, a request for review using current computer modeling utilized by the office and based upon software developed by the Federal Emergency Management Agency (FEMA), referred to as Hazards US, and the building was deemed SPC-1 after that review.

(B) The hospital building plans for the building are submitted to the office and deemed ready for review by the office prior to July 1, 2010. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that shall be retrofitted or

replaced to meet the requirements of this section as a result of the project.

(C) The hospital receives a building permit from the office for the construction described in subparagraph (B) prior to January 1, 2012.

(D) The hospital submits, prior to January 1, 2012, a construction timeline for the building demonstrating the hospital's intent and ability to meet the applicable deadline. The timeline shall include all of the following:

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

(E) The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F) The hospital owner completes construction such that the hospital meets all criteria to enable the office to issue a certificate of occupancy by the applicable deadline for the building.

(6) A hospital located in the County of Sacramento, San Mateo, or Santa Barbara or the City of San Jose that has received an additional extension pursuant to paragraph (2) or (5) may request an additional extension until September 1, 2015, to obtain either a certificate of occupancy from the office for a replacement building, or a construction final from the office for a building on which a retrofit has been performed.

(7) A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(8) The office may revoke an extension granted pursuant to this subdivision for any hospital building where the work of construction is abandoned or suspended for a period of at least one year, unless the hospital demonstrates in a public document that the abandonment or suspension was caused by factors beyond its control.

(g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and Sections 130061.5 and 130064, a hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision

(a) or (b) also may request an additional extension of up to seven years for a hospital building that it owns or operates. The office may grant the extension subject to the hospital meeting the milestones set forth in paragraph (2).

(2) The hospital building subject to the extension shall meet all of the following milestones, unless the hospital building is reclassified as SPC-2 or higher as a result of its Hazards US score:

(A) The hospital owner submits to the office, no later than September 30, 2012, a letter of intent stating whether it intends to rebuild, replace, or retrofit the building, or remove all general acute care beds and services from the building, and the amount of time necessary to complete the construction.

(B) The hospital owner submits to the office, no later than September 30, 2012, a schedule detailing why the requested extension is necessary, and specifically how the hospital intends to meet the requested deadline.

(C) The hospital owner submits to the office, no later than September 30, 2012, an application ready for review seeking structural reassessment of each of its SPC-1 buildings using current computer modeling based upon software developed by FEMA, referred to as Hazards US.

(D) The hospital owner submits to the office, no later than January 1, 2015, plans ready for review consistent with the letter of intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant to subparagraph (B).

(E) The hospital owner submits a financial report to the office at the time the plans are submitted pursuant to subparagraph (D). The report shall demonstrate the hospital owner's financial capacity to implement the construction plans submitted pursuant to subparagraph (D).

(F) The hospital owner receives a building permit consistent with the letter of intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant to subparagraph (B), no later than July 1, 2018.

(3) To evaluate public safety and determine whether to grant an extension of the deadline, the office shall consider the structural integrity of the hospital's SPC-1 buildings based on its Hazards US scores, community access to essential hospital services, and the hospital owner's financial capacity to meet the deadline as determined by either a bond rating of BBB or below or the financial

report on the hospital owner's financial capacity submitted pursuant to subparagraph (E) of paragraph (2). The criteria contained in this paragraph shall be considered by the office in its determination of the length of an extension or whether an extension should be granted.

(4) The extension or subsequent adjustments granted pursuant to this subdivision may not exceed the amount of time that is reasonably necessary to complete the construction specified in paragraph (2).

(5) If the circumstances underlying the request for extension submitted to the office pursuant to paragraph (2) change, the hospital owner shall notify the office as soon as practicable, but in no event later than six months after the hospital owner discovered the change of circumstances. The office may adjust the length of the extension granted pursuant to paragraphs (2) and (3) as necessary, but in no event longer than the period specified in paragraph (1).

(6) A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(7) The office may revoke an extension granted pursuant to this subdivision for any hospital building when it is determined that any information submitted pursuant to this section was falsified, or if the hospital failed to meet a milestone set forth in paragraph (2), or ~~where~~ *when* the work of construction is abandoned or suspended for a period of at least six months, unless the hospital demonstrates in a publicly available document that the abandonment or suspension was caused by factors beyond its control.

(8) Regulatory submissions made by the office to the California Building Standards Commission to implement this section shall be deemed to be emergency regulations and shall be adopted as emergency regulations.

(9) The hospital owner that applies for an extension pursuant to this subdivision shall pay the office an additional fee, to be determined by the office, sufficient to cover the additional reasonable costs incurred by the office for maintaining the additional reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the extension documentation submitted pursuant to this subdivision. This additional fee shall not include any cost for review of the

plans or other duties related to receiving a building or occupancy permit.

(10) This subdivision shall become operative on the date that the State Department of Health Care Services receives all necessary federal approvals for a 2011–12 fiscal year hospital quality assurance fee program that includes three hundred twenty million dollars ($320,000,000) in fee revenue to pay for health care coverage for children, which is made available as a result of the legislative enactment of a 2011–12 fiscal year hospital quality assurance fee program.

SEC. 359. Section 136000 of the Health and Safety Code is amended to read:

136000. (a) (1) The Office of Patient Advocate is hereby established within the California Health and Human Services Agency, to provide assistance to, and advocate on behalf of, health care consumers. The goal of the office shall be to coordinate amongst, provide assistance to, and collect data from, all of the state agency consumer assistance or patient assistance programs and call centers, to better enable health care consumers to access the health care services to which they are eligible under the law, including, but not limited to, commercial and Exchange coverage, Medi-Cal, Medicare, and federal veterans health benefits. Notwithstanding any provision of this division, each regulator and health coverage program shall retain its respective authority, including its authority to resolve complaints, grievances, and appeals.

(2) The office shall be headed by a patient advocate appointed by the Governor. The patient advocate shall serve at the pleasure of the Governor.

(b) (1) The duties of the office shall include, but not be limited to, all of the following:

(A) Coordinate and work in consultation with state agency and local, nongovernment health care consumer or patient assistance programs and health care ombudsperson programs.

(B) Produce a baseline review and annual report to be made publically available on the office's Internet Web site by July 1, 2015, and annually thereafter, of health care consumer or patient assistance help centers, call centers, ombudsperson, or other assistance centers operated by the Department of Managed Health Care, the *State* Department of Health Care Services, the Department

of Insurance, and the Exchange, that includes, at a minimum, all of the following:

(i) The types of calls received and the number of calls.

(ii) The call center's role with regard to each type of call, question, complaint, or grievance.

(iii) The call center's protocol for responding to requests for assistance from health care consumers, including any performance standards.

(iv) The protocol for referring or transferring calls outside the jurisdiction of the call center.

(v) The call center's methodology of tracking calls, complaints, grievances, or inquiries.

(C) (i) Collect, track, and analyze data on problems and complaints by, and questions from, consumers about health care coverage for the purpose of providing public information about problems faced and information needed by consumers in obtaining coverage and care. The data collected shall include demographic data, source of coverage, regulator, type of problem or issue or comparable types of problems or issues, and resolution of complaints, including timeliness of resolution. Notwithstanding Section 10231.5 of the Government Code, the office shall submit a report by July 1, 2015, and annually thereafter to the Legislature. The report shall be submitted in compliance with Section 9795 of the Government Code. The format may be modified annually as needed based upon comments from the Legislature and stakeholders.

(ii) For the purpose of publically reporting information as required in subparagraph (B) and this subparagraph about the problems faced by consumers in obtaining care and coverage, the office shall analyze data on consumer complaints and grievances resolved by the agencies listed in subdivision (c), including demographic data, source of coverage, insurer or plan, resolution of complaints, and other information intended to improve health care and coverage for consumers.

(D) Make recommendations, in consultation with stakeholders, for improvement or standardization of the health consumer assistance functions, referral process, and data collection and analysis.

(E) Develop model protocols, in consultation with consumer assistance call centers and stakeholders, that may be used by call

centers for responding to and referring calls that are outside the jurisdiction of the call center, program, or regulator.

(F) Compile an annual publication, to be made publically available on the office's Internet Web site, of a quality of care report card, including, but not limited, to health care service plans, preferred provider organizations, and medical groups.

(G) Make referrals to the appropriate state agency, whether further or additional actions may be appropriate, to protect the interests of consumers or patients.

(H) Assist in the development of educational and informational guides for consumers and patients describing their rights and responsibilities and informing them on effective ways to exercise their rights to secure and access health care coverage, produced by the Department of Managed Health Care, the *State* Department of Health Care Services, the Exchange, and the ~~California~~ Department of Insurance, and to endeavor to make those materials easy to read and understand and available in all threshold languages, using an appropriate literacy level and in a culturally competent manner.

(I) Coordinate with other state and federal agencies engaged in outreach and education regarding the implementation of federal health care reform, and to assist in these duties, may provide or assist in the provision of grants to community-based consumer assistance organizations for these purposes.

(J) If appropriate, refer consumers to the appropriate regulator of their health coverage programs for filing complaints or grievances.

(2) The office shall employ necessary staff. The office may employ or contract with experts when necessary to carry out the functions of the office. The patient advocate shall make an annual budget request for the office that shall be identified in the annual Budget Act.

(3) The patient advocate shall annually issue a public report on the activities of the office, and shall appear before the appropriate policy and fiscal committees of the Senate and Assembly, if requested, to report and make recommendations on the activities of the office.

(4) The office shall adopt standards for the organizations with which it contracts pursuant to this section to ensure compliance with the privacy and confidentiality laws of this state, including,

but not limited to, the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The office shall conduct privacy trainings as necessary, and regularly verify that the organizations have measures in place to ensure compliance with this provision.

(c) The Department of Managed Health Care, the *State* Department of Health Care Services, the Department of Insurance, the Exchange, and any other public health coverage programs shall provide to the office data concerning call centers to meet the reporting requirements in subparagraph (B) of paragraph (1) of subdivision (b) and consumer complaints and grievances to meet the reporting requirements in clause (i) of subparagraph (C) of paragraph (1) of subdivision (b).

(d) For purposes of this section, the following definitions apply:

(1) "Consumer" or "individual" includes the individual or his or her parent, guardian, conservator, or authorized representative.

(2) "Exchange" means the California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code.

(3) "Health care" includes services provided by any of the health care coverage programs.

(4) "Health care service plan" has the same meaning as that set forth in subdivision (f) of Section 1345. Health care service plan includes "specialized health care service plans," including behavioral health plans.

(5) "Health coverage program" includes the Medi-Cal program, Healthy Families Program, tax subsidies and premium credits under the Exchange, the Basic Health Program, if enacted, county health coverage programs, and the Access for Infants and Mothers Program.

(6) "Health insurance" has the same meaning as set forth in Section 106 of the Insurance Code.

(7) "Health insurer" means an insurer that issues policies of health insurance.

(8) "Office" means the Office of Patient Advocate.

(9) "Threshold languages" has the same meaning as for Medi-Cal managed care.

SEC. 360. Section 926.1 of the Insurance Code is amended to read:

926.1. As used in this article, the following terms shall have the following meanings:

(a) "Area median income" (AMI) means either of the following:

(1) The median family income for the Metropolitan Statistical Area (MSA), if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions.

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(b) "Community development investment" means an investment where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California low- or moderate-income individuals, families, or communities. "Community development investment" includes, but is not limited to, investments in California in the following:

(1) Affordable housing, including multifamily rental and ownership housing, for low- or moderate-income individuals or families.

(2) Community facilities or community services providers (including providers of education, health, or social services) directly benefiting low- or moderate-income individuals, families, or communities.

(3) Economic development that demonstrates benefits, including, but not limited to, job creation, retention, or improvement, or provision of needed capital, to low- or ~~moderate-income,~~ *moderate-income* individuals, families, or communities, including urban or rural communities, or businesses or nonprofit community service organizations that serve these communities.

(4) Activities that revitalize or stabilize low- or moderate-income communities.

(5) Investments in or through California Organized Investment Network (COIN)-certified community development financial institutions (CDFIs) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, including green investments, if these investments directly benefit low- or moderate-income individuals, families, and communities and are consistent with this article.

(6) Community development infrastructure investments.

(7) Investments in a commercial property or properties located in low- or moderate-income geographical areas and are consistent with this article.

(c) "Community development infrastructure" means California public debt (including all debt issued by the State of California or a California state or local government agency) where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- or moderate-income communities and is consistent with subdivision (b).

(d) "Geography" means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(e) "Green investments" means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new growth and jobs. "Green investments" also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation, including, but not limited to, solar and wind power, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.

(f) "High-impact investments" means investments that are innovative, responsive to community needs, not routinely provided by insurers, or have a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California.

(g) "Insurer" means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

(h) "Investment" means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

(i) "Low-income" means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

(j) "MSA" means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(k) "Moderate-income" means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

(*l*) "Nonmetropolitan area" means any area that is not located in an MSA.

SEC. 361. Section 926.2 of the Insurance Code is amended to read:

926.2. (a) (1) Each admitted insurer with annual premiums written in California equal to or in excess of one hundred million dollars ($100,000,000) for any reporting year shall provide information to the commissioner on all of its community development investments, community development infrastructure investments, and green investments in California. This information shall be reported by July 1, 2016, on investments made or held during the calendar years 2013, 2014, and 2015 and list, if applicable, investments that are high-impact, green, or rural. The information reported by insurers may include investments both held and originated, the percentage of any investment that qualifies, and why an investment qualifies. This information shall be provided as part of the required filing pursuant to Section 900 or 11131, or through a data call, or by other means as determined by the commissioner. The California Organized Investment Network (COIN) shall provide insurers with information on why investments, if any, were found not to be qualified by the commissioner.

(2) ~~Nothing in this~~ *This* subdivision ~~shall~~ *does not* preclude an insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with paragraph (1) through a single filing on behalf of the entire group of affiliated companies, provided that the data so filed accurately reflects the investments made by each of the affiliates, and accurately attributes, by National Association of Insurance Commissioners (NAIC) number or other

identifier required by the commissioner, which of the investments were made by each affiliated company.

(3) This subdivision ~~shall~~ *does* not preclude an insurer from satisfying the requirements of paragraph (1) through a filing made by a community development financial institution, provided all of the following conditions are met:

(A) The insurer has no less than a 10 percent ownership interest in a COIN-certified community development financial institution.

(B) The insurer makes community development investments and community development infrastructure investments in and through the community development financial institution.

(C) The community development financial institution accurately files the information required by paragraph (1) with the commissioner on behalf of the insurer and accurately attributes, by NAIC number or other identifier required by the commissioner, which investments, including the dollar amounts of the investments, were made by each insurer on whose behalf the community development financial institution is reporting.

(b) The commissioner shall, by December 31, 2016, provide all of the following:

(1) Information on the department's Internet Web site on the aggregate insurer community development investments and community development infrastructure investments. Insurers that make high-impact investments that are defined as innovative, responsive to community needs, not routinely provided by insurers, or have a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California shall be identified.

(2) Information on the department's Internet Web site on the actions taken by COIN to analyze the data by insurers for the purpose of creating and identifying potential investment opportunities, including the development of investment opportunity bulletins. This information shall state the efforts made by COIN to market and expand outreach to communities.

(c) The department shall also, by December 31, 2016, provide information on the department's Internet Web site regarding the aggregate amount of California public debt (including all debt issued by the State of California or a California state or local government agency) purchased by insurers as reported to the

department in their NAIC annual statement filing pursuant to Section 900 or 11131.

(d) The department shall also, by December 31, 2016, provide on its Internet Web site the aggregate amount of identified California investments, as reported to the NAIC in the annual statement filed pursuant to Section 900 or ~~Section~~ 11131.

(e) The department shall also by December 31, 2016, provide information on its Internet Web site regarding the aggregate amount of identified California insurer investments in green investments.

(f) This article shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 362. Section 1215.8 of the Insurance Code is amended to read:

1215.8. (a) All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Sections 1215.4 and 1215.5, and all information reported pursuant to Section 1215.4, shall be kept confidential, is not subject to disclosure by the commissioner pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), is not subject to subpoena, and is not subject to discovery from the commissioner or admissible into evidence in any private civil action if obtained from the commissioner in any manner. This information shall not be made public by the commissioner or any other person except to insurance departments of other states without the prior written consent of the insurance company to which it pertains, unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event he or she may publish all or any part thereof in a manner as he or she may deem appropriate.

(b) In order to assist in the performance of the commissioner's duties, the commissioner:

(1) May, upon request, be required to share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subdivision (a), with other state, federal, and international

regulatory agencies, with the ~~NAIC~~ *National Association of Insurance Commissioners (NAIC)* and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 1215.7; provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information, and has verified in writing the legal authority to maintain confidentiality.

(2) Notwithstanding paragraph (1), may only share confidential and privileged documents, materials, or information reported pursuant to subdivision (m) of Section 1215.4 with commissioners of states having statutes or regulations substantially similar to subdivision (a) and who have agreed in writing not to disclose the information.

(3) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(4) May enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this subdivision consistent with this subdivision that shall do the following:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators.

(B) Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision remains with the commissioner and the NAIC's use of the information is subject to the direction of the commissioner.

(C) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this subdivision is subject to a request or subpoena to the NAIC for disclosure or production.

(D) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision.

(c) The sharing of information by the commissioner pursuant to this subdivision shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this article.

(d) ~~No~~ *A* waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information ~~shall~~ *does not* occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision (c).

(e) Documents, materials, or other information filed in the possession or control of the NAIC pursuant to this subdivision ~~shall be~~ *are* confidential by law and privileged, ~~shall~~ *are* not ~~be~~ subject to subpoena, and ~~shall~~ *are* not ~~be~~ subject to discovery or admissible in evidence in any private civil action.

SEC. 363. Section 10112.26 of the Insurance Code is amended to read:

10112.26. (a) A health insurer that issues, sells, renews, or offers a specialized health insurance policy covering dental services shall, no later than September 30, 2015, and each year thereafter, file a report, which shall be known as the MLR annual report, with the department that is organized by market and product type and contains the same information required in the 2013 federal Medical Loss Ratio (MLR) Annual Reporting Form (CMS-10418).

(b) The MLR reporting year shall be for the calendar year during which dental coverage is provided by the plan. All terms used in the MLR annual report shall have the same meaning as used in the federal Public Health Service Act (42 U.S.C. Sec. 300gg-18) and Part 158 (commencing with *Section* 158.101) of Title 45 of the Code of Federal Regulations.

(c) If the commissioner decides to conduct an examination, as described in Section 730, because the commissioner finds it necessary to verify the health insurer's representations in the MLR annual report, the department shall provide the health insurer with

a notification 30 days before the commencement of the examination.

(d) The health insurer shall have 30 days from the date of notification to electronically submit to the department all requested records, books, and papers specified in subdivision (a) of Section 733. The commissioner may extend the time for a health insurer to comply with this subdivision upon a finding of good cause.

(e) The department shall make available to the public all of the data provided to the department pursuant to this section.

(f) This section does not apply to an insurance policy issued, sold, renewed, or offered for health care services or coverage provided in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code), the Access for Infants and Mothers Program (Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code), the California Major Risk Medical Insurance Program (Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code), or the Federal Temporary High Risk Insurance Pool (Part 6.6 (commencing with Section 12739.5) of Division 2 of the Insurance Code), to the extent consistent with the federal Patient Protection and Affordable Care Act (Public Law 111-148).

(g) This section ~~shall~~ *does* not apply to disability insurance for covered benefits in the single specialized area of dental-only health care that pays benefits on a fixed benefit, cash payment only basis.

(h) It is the intent of the Legislature that the data reported pursuant to this section be considered by the Legislature in adopting a medical loss ratio standard for specialized health insurance policies that cover dental services that would take effect no later than January 1, 2018.

(i) Until January 1, 2018, the department may issue guidance to health insurers of specialized health insurance policies subject to this section regarding compliance with this section. This 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~~ *Guidance* issued pursuant to this subdivision ~~shall be~~ *is* effective only until the department adopts regulations pursuant to the Administrative Procedure Act. The department shall consult with

the Department of Managed Health Care in issuing guidance pursuant to this subdivision.

SEC. 364. Section 10112.35 of the Insurance Code is amended to read:

10112.35. (a) An insurer providing individual coverage in the Exchange shall cooperate with requests from the Exchange to collaborate in the development of, and participate in the implementation of, the Medi-Cal program's premium and cost-sharing payments under Sections 14102 and 14148.65 of the Welfare and Institutions Code for eligible Exchange insureds.

(b) An insurer providing individual coverage in the Exchange shall not charge, bill, ask, or require an insured receiving benefits under Section 14102 or ~~Section~~ 14148.65 of the Welfare and Institutions Code to make any premium or cost-sharing payments for any services that are subject to premium or cost-sharing payments by the State Department of Health Care Services under Section 14102 or ~~Section~~ 14148.65 of the Welfare and Institutions Code.

(c) For purposes of this section, "Exchange" means the California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code.

SEC. 365. Section 10123.196 of the Insurance Code is amended to read:

10123.196. (a) An individual or group policy of disability insurance issued, amended, renewed, or delivered on or after January 1, 2000, through December 31, 2015, inclusive, that provides coverage for hospital, medical, or surgical expenses, shall provide coverage for the following, under the same terms and conditions as applicable to all benefits:

(1) A disability insurance policy that provides coverage for outpatient prescription drug benefits shall include coverage for a variety of federal Food and Drug Administration ~~(FDA) approved~~ *(FDA)-approved* prescription contraceptive methods, as designated by the insurer. If an insured's health care provider determines that none of the methods designated by the disability insurer is medically appropriate for the insured's medical or personal history, the insurer shall, in the alternative, provide coverage for some other ~~FDA approved~~ *FDA-approved* prescription contraceptive method prescribed by the patient's health care provider.

(2) Coverage with respect to an insured under this subdivision shall be identical for an insured's covered spouse and covered nonspouse dependents.

(b) (1) A group or individual policy of disability insurance, except for a specialized health insurance policy, that is issued, amended, renewed, or delivered on or after January 1, 2016, shall provide coverage for all of the following services and contraceptive methods for women:

(A) Except as provided in subparagraphs (B) and (C) of paragraph (2), all FDA-approved contraceptive drugs, devices, and other products for women, including all FDA-approved contraceptive drugs, devices, and products available over the counter, as prescribed by the insured's provider.

(B) Voluntary sterilization procedures.

(C) Patient education and counseling on contraception.

(D) Followup services related to the drugs, devices, products, and procedures covered under this subdivision, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(2) (A) Except for a grandfathered health plan, a disability insurer subject to this subdivision shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to this subdivision.

(B) ~~Where~~ *If* the FDA has approved one or more therapeutic equivalents of a contraceptive drug, device, or product, a disability insurer is not required to cover all of those therapeutically equivalent versions in accordance with this subdivision, as long as at least one is covered without cost sharing in accordance with this subdivision.

(C) If a covered therapeutic equivalent of a drug, device, or product is not available, or is deemed medically inadvisable by the insured's provider, a disability insurer shall provide coverage, subject to an insurer's utilization management procedures, for the prescribed contraceptive drug, device, or product without cost sharing. Any request by a contracting provider shall be responded to by the disability insurer in compliance with Section 10123.191.

(3) Except as otherwise authorized under this section, an insurer shall not impose any restrictions or delays on the coverage required under this subdivision.

(4) Coverage with respect to an insured under this subdivision shall be identical for an insured's covered spouse and covered nonspouse dependents.

(c) ~~Nothing in this~~ *This* section shall *not* be construed to deny or restrict in any way any existing right or benefit provided under law or by contract.

(d) ~~Nothing in this~~ *This* section shall *not* be construed to require an individual or group disability insurance policy to cover experimental or investigational treatments.

(e) Notwithstanding any other provision of this section, a religious employer may request a disability insurance policy without coverage for contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, a disability insurance policy shall be provided without coverage for contraceptive methods.

(1) For purposes of this section, a "religious employer" is an entity for which each of the following is true:

(A) The inculcation of religious values is the purpose of the entity.

(B) The entity primarily employs persons who share the religious tenets of the entity.

(C) The entity serves primarily persons who share the religious tenets of the entity.

(D) The entity is a nonprofit organization pursuant to Section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended.

(2) Every religious employer that invokes the exemption provided under this section shall provide written notice to any prospective employee once an offer of employment has been made, and prior to that person commencing that employment, listing the contraceptive health care services the employer refuses to cover for religious reasons.

(f) ~~Nothing in this~~ *This* section shall *not* be construed to exclude coverage for contraceptive supplies as prescribed by a provider, acting within his or her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an insured.

(g) This section ~~shall only apply~~ *only applies* to disability insurance policies or contracts that are defined as health benefit

plans pursuant to subdivision (a) of Section 10198.6, except that for accident only, specified disease, or hospital indemnity coverage, coverage for benefits under this section ~~shall apply~~ *applies* to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or contract. ~~Nothing in this~~ *This* section shall *not* be construed as imposing a new benefit mandate on accident only, specified disease, or hospital indemnity insurance.

(h) For purposes of this section, the following definitions apply:

(1) "Grandfathered health plan" has the meaning set forth in Section 1251 of PPACA.

(2) "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any rules, regulations, or guidance issued thereunder.

(3) With respect to policies of disability insurance issued, amended, or renewed on or after January 1, 2016, "health care provider" means an individual who is certified or licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or an initiative act referred to in that division, or Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

SEC. 366. Section 10123.21 of the Insurance Code, as added by Section 2 of Chapter 419 of the Statutes of 2005, is amended and renumbered to read:

~~10123.21.~~

10123.22. (a) A health insurer shall not deny coverage that is otherwise available under the health insurance policy for the costs of solid organ or other tissue transplantation services based upon the insured or policyholder being infected with the human immunodeficiency virus.

(b) Notwithstanding any other provision of law, in the provision of benefits required by this section, a health insurer may utilize case management, managed care, or utilization review, subject to the terms and conditions of the policy and consistent with sound clinical processes and guidelines.

SEC. 367. Section 10192.18 of the Insurance Code is amended to read:

10192.18. (a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medi-Cal coverage, or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other disability policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing those questions and statements may be used.

(Statements)

(1) You do not need more than one Medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medi-Cal and may not need a Medicare supplement policy.

(4) If after purchasing this policy you become eligible for Medi-Cal, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medi-Cal for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal. If you are no longer entitled to Medi-Cal, your suspended Medicare supplement policy or if that is no longer available, a substantially equivalent policy, will be reinstituted if requested within 90 days of losing Medi-Cal eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(5) If you are eligible for, and have enrolled in, a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances and later lose your employer or union-based group health plan, your

suspended Medicare supplement policy or if that is no longer available, a substantially equivalent policy, will be reinstituted if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(6) Counseling services are available in this state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the Medi-Cal program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB). If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance's toll-free telephone number 1-800-927-HELP, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

(Questions)

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. PLEASE ANSWER ALL QUESTIONS.

[Please mark Yes or No below with an "X."]

To the best of your knowledge,

(1) (a) Did you turn 65 years of age in the last 6 ~~months~~ *months?*

Yes____ No____

(b) Did you enroll in Medicare Part B in the last 6 ~~months~~ *months?*

Yes____ No____

(c) If yes, what is the effective ~~date~~ *date?* _____

(2) Are you covered for medical assistance through California's Medi-Cal ~~program~~ *program?*

NOTE TO APPLICANT: If you have a share of cost under the Medi-Cal program, please answer NO to this question.

Yes____ No____

If yes,

(a) Will Medi-Cal pay your premiums for this Medicare supplement ~~policy~~ *policy?*

Yes____ No____

(b) Do you receive benefits from Medi-Cal OTHER THAN payments toward your Medicare Part B ~~premium~~ *premium?*

Yes____ No____

(3) (a) If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

START __/__/__ END __/__/__

(b) If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement ~~policy~~ *policy?*

Yes____ No____

(c) Was this your first time in this type of Medicare ~~plan~~ *plan?*

Yes____ No____

(d) Did you drop a Medicare supplement policy to enroll in the Medicare ~~plan~~ *plan?*

Yes____ No____

(4) (a) Do you have another Medicare supplement policy in ~~force~~ *force?*

Yes____ No____

(b) If so, with what company, and what plan do you have [optional for direct ~~mailers]~~ *mailers]?*

Yes____ No____

(c) If so, do you intend to replace your current Medicare supplement policy with this ~~policy~~ *policy?*

Yes____ No____

(5) Have you had coverage under any other health insurance within the past 63 ~~days~~ *days?* (For example, an employer, union, or individual plan)

Yes____ No____

(a) If so, with what companies and what kind of ~~policy~~ *policy?*

_____

_____

_____

_____

(b) What are your dates of coverage under the other ~~policy~~ *policy?*

START __/__/__ END __/__/__

(If you are still covered under the other policy, leave "END" blank.)*"*

(b) Agents shall list any other health insurance policies they have sold to the applicant as follows:

(1) List policies sold that are still in force.

(2) List policies sold in the past five years that are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the issuer, shall be returned to the applicant by the issuer upon delivery of the policy.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance for delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer as provided in Section 10508. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by subdivision (d) for an issuer shall be in the form specified by the commissioner, using, to the extent practicable, a model notice prepared by the National Association of Insurance Commissioners for this purpose. The replacement notice shall be printed in no less than 12-point type in substantially the following form:

[Insurer's name and address]

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE ADVANTAGE

SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE FUTURE.

If you intend to cancel or terminate existing Medicare supplement or Medicare Advantage insurance and replace it with coverage issued by [company name], please review the new coverage carefully and replace the existing coverage ONLY if the new coverage materially improves your position. DO NOT CANCEL YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

If you decide to purchase the new coverage, you will have 30 days after you receive the policy to return it to the insurer, for any reason, and receive a refund of your money.

If you want to discuss buying Medicare supplement or Medicare Advantage coverage with a trained insurance counselor, call the California Department of Insurance's toll-free telephone number 1-800-927-HELP, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

STATEMENT TO APPLICANT FROM THE INSURER AND AGENT: I have reviewed your current health insurance coverage. To the best of my knowledge, the replacement of insurance involved in this transaction does not duplicate coverage or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your Medicare Advantage plan. In addition, the replacement coverage contains benefits that are clearly and substantially greater than your current benefits for the following reasons:

__ Additional benefits that are: _____

__ No change in benefits, but lower premiums.

__ Fewer benefits and lower premiums.

__ Plan has outpatient prescription drug coverage and applicant is enrolled in Medicare Part D.

__ Disenrollment from a Medicare Advantage plan. Reasons for disenrollment:

__ Other reasons specified here: _____

1. Note: If the issuer of the Medicare supplement policy being applied for does not impose, or is otherwise prohibited from imposing, preexisting condition limitations, please skip to statement 3 below. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement Medicare supplement policy may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new coverage for similar benefits to the extent that time was spent (depleted) under the original policy.

3. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer any and all questions on the application concerning your medical and health history. Failure to include all material medical information on an application requesting that information may provide a basis for the insurer to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

_____

(Signature of Agent, Broker, or Other Representative)

_____

(Signature of Applicant)

_____

(Date)

(f) ~~No~~ *An* issuer, broker, agent, or other person shall *not* cause an insured to replace a Medicare supplement insurance policy unnecessarily. In recommending replacement of any Medicare supplement insurance, an agent shall make reasonable efforts to determine the appropriateness to the potential insured.

(g) An issuer shall not require, request, or obtain health information as part of the application process for an applicant who is eligible for guaranteed issuance of, or open enrollment for, any Medicare supplement coverage pursuant to Section 10192.11 or 10192.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 10192.11 when the applicant is first enrolled in Medicare Part B. The application form shall include a clear and conspicuous statement that the applicant is not required to provide health information during a period where guaranteed issue or open enrollment applies, as specified in Section 10192.11 or 10192.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 10192.11 when the applicant is first enrolled in Medicare Part B, and shall inform the applicant of those periods of guaranteed issuance of Medicare supplement coverage. This subdivision ~~shall~~ *does* not prohibit an issuer from requiring proof of eligibility for a guaranteed issuance of Medicare supplement coverage.

SEC. 368. Section 10753.06.5 of the Insurance Code is amended to read:

10753.06.5. (a) With respect to small employer health benefit plans offered outside the Exchange, after a small employer submits a completed application, the carrier shall, within 30 days, notify the employer of the employer's actual rates in accordance with Section 10753.14. The employer ~~shall have~~ *has* 30 days in which to exercise the right to buy coverage at the quoted rates.

(b) Except as required under subdivision (c), when a small employer submits a premium payment, based on the quoted rates, and that payment is delivered or postmarked, whichever occurs earlier, within the first 15 days of a month, coverage shall become effective no later than the first day of the following month. When that payment is neither delivered nor postmarked until after the 15th day of a month, coverage shall become effective no later than the first day of the second month following delivery or postmark of the payment.

(c) (1) With respect to a small employer health benefit plan offered through the Exchange, a carrier shall apply coverage effective dates consistent with those required under Section 155.720 of Title 45 of the Code of Federal Regulations and ~~paragraph (2)~~ of subdivision (e) of Section 10965.3.

(2) With respect to a small employer health benefit plan offered outside the Exchange for which an individual applies during a special enrollment period described in paragraph (3) of subdivision (b) of Section 10753.05, the following provisions shall apply:

(A) Coverage under the plan shall become effective no later than the first day of the first calendar month beginning after the date the carrier receives the request for special enrollment.

(B) Notwithstanding subparagraph (A), in the case of a birth, adoption, or placement for adoption, coverage under the plan shall become effective on the date of birth, adoption, or placement for adoption.

(d) During the first 30 days of coverage, the small employer shall have the option of changing coverage to a different health benefit plan offered by the same carrier. If a small employer notifies the carrier of the change within the first 15 days of a month, coverage under the new health benefit plan shall become effective no later than the first day of the following month. If a small employer notifies the carrier of the change after the 15th day of a month, coverage under the new health benefit plan shall become effective no later than the first day of the second month following notification.

(e) All eligible employees and dependents listed on a small employer's completed application shall be covered on the effective date of the health benefit plan.

SEC. 369. The heading of Chapter 17 (commencing with Section 12693.99) of Part 6.2 of Division 2 of the Insurance Code is repealed.

~~Chapter 17. Repeal~~

SEC. 370. Section 12880.4 of the Insurance Code is amended to read:

12880.4. (a) Whenever the commissioner shall have reason to believe that a person has engaged or is engaging in this state in a violation of this ~~article,~~ *part,* and that a proceeding by the

commissioner in respect thereto would be to the interest of the public, he or she shall issue and serve upon that person an order to show cause containing a statement of the charges in that respect, a statement of that person's potential liability under this part, and a notice of a hearing thereon to be held at a time and place fixed therein, which shall not be less than 30 days after the service thereof, for the purpose of determining whether the commissioner should issue an order to that person to pay the penalty imposed by Section 12880.3 and to cease and desist those methods, acts, or practices, or any of them, that violate this ~~article.~~ *part.*

(b) If the charges or any of them are found to be justified, the commissioner shall issue and cause to be served upon that person an order requiring that person to pay the penalty imposed by Section 12880.3 and to cease and desist from engaging in those methods, acts, or practices found to be in violation of this part.

(c) The hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), except that the hearings may be conducted by an administrative law judge in the administrative law bureau when the proceedings involve a common question of law or fact with another proceeding arising under other Insurance Code sections that may be conducted by administrative law bureau administrative law judges. The commissioner and the appointed administrative law judge shall have all the powers granted under the Administrative Procedure Act.

(d) The person ~~shall be~~ *is* entitled to have the proceedings and the order reviewed by means of any remedy provided by Section 12940 or by the Administrative Procedure Act.

SEC. 371. Section 1019 of the Labor Code is amended to read:

1019. (a) It ~~shall be~~ *is* unlawful for an employer or any other person or entity to engage in, or to direct another person or entity to engage in, unfair immigration-related practices against any person for the purpose of, or with the intent of, retaliating against any person for exercising any right protected under this code or by any local ordinance applicable to employees. Exercising a right protected by this code or local ordinance includes the following:

(1) Filing a complaint or informing any person of an employer's or other party's alleged violation of this code or local ordinance, so long as the complaint or disclosure is made in good faith.

(2) Seeking information regarding whether an employer or other party is in compliance with this code or local ordinance.

(3) Informing a person of his or her potential rights and remedies under this code or local ordinance, and assisting him or her in asserting those rights.

(b) (1) As used in this chapter, "unfair immigration-related practice" means any of the following practices, when undertaken for the retaliatory purposes prohibited by subdivision (a):

(A) Requesting more or different documents than are required under Section 1324a(b) of Title 8 of the United States Code, or a refusal to honor documents tendered pursuant to that section that on their face reasonably appear to be genuine.

(B) Using the federal E-Verify system to check the employment authorization status of a person at a time or in a manner not required under Section 1324a(b) of Title 8 of the United States Code, or not authorized under any memorandum of understanding governing the use of the federal E-Verify system.

(C) Threatening to file or the filing of a false police report, or a false report or complaint with any state or federal agency.

(D) Threatening to contact or contacting immigration authorities.

(2) "Unfair immigration-related practice" does not include conduct undertaken at the express and specific direction or request of the federal government.

(c) Engaging in an unfair immigration-related practice against a person within 90 days of the person's exercise of rights protected under this code or local ordinance applicable to employees shall raise a rebuttable presumption of having done so in retaliation for the exercise of those rights.

(d) (1) An employee or other person who is the subject of an unfair immigration-related practice prohibited by this section, or a representative of that employee or person, may bring a civil action for equitable relief and any applicable damages or penalties.

(2) Upon a finding by a court of applicable jurisdiction of a violation *of* this section, upon application by a party or on its own motion, a court may do the following:

(A) For a first violation, order the appropriate government agencies to suspend all licenses that are held by the violating party for a period of up to 14 days. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order.

(B) For a second violation, order the appropriate government agencies to suspend all licenses that are held by the violating party for a period of up to 30 days. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall immediately suspend the licenses.

(C) For a third or subsequent violation, order the appropriate government agencies to suspend for a period of up to 90 days all licenses that are held by the violating party. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall immediately suspend the licenses.

(3) In determining whether a suspension of all licenses is appropriate under this subdivision, the court shall consider whether the employer knowingly committed an unfair immigration-related practice, the good faith efforts of the employer to resolve any alleged unfair immigration-related practice after receiving notice of the violations, as well as the harm other employees of the employer, or employees of other employers on a multiemployer job site, will suffer as a result of the suspension of all licenses.

(4) An employee or other person who is the subject of an unfair immigration-related practice prohibited by this section, and who prevails in an action authorized by this section, shall recover his or her reasonable attorney's fees and costs, including any expert witness costs.

(e) As used in this chapter:

(1) "License" means any agency permit, certificate, approval, registration, or charter that is required by law and that is issued by any agency for the purposes of operating a business in this state and that is specific to the business location or locations where the unfair immigration-related practice occurred. "License" does not include a professional license.

(2) "Violation" means each incident when an unfair immigration-related practice was committed, without reference to the number of employees involved in the incident.

SEC. 372. Section 1311.5 of the Labor Code is amended to read:

1311.5. (a) This section shall be known and may be cited as the Child Labor Protection Act of 2014.

~~(a)~~

(b) The statute of limitations for claims arising under this code shall be tolled until an individual allegedly aggrieved by an

unlawful practice attains the age of majority. This subdivision is declaratory of existing law.

~~(b)~~

(c) In addition to other remedies available, an individual who is discharged, threatened with discharge, demoted, suspended, retaliated against, subjected to an adverse action, or in any other manner discriminated against in the terms or conditions of his or her employment because the individual filed a claim or civil action alleging a violation of this code that arose while the individual was a minor, whether the claim or civil action was filed before or after the individual reached the age of majority, ~~shall be~~ *is* entitled to treble damages.

~~(c)~~

(d) A class "A" violation, as defined in subdivision (a) of Section 1288, that involves a minor 12 years of age or younger shall be subject to a civil penalty in an amount not less than twenty-five thousand dollars ($25,000) and not exceeding fifty thousand dollars ($50,000) for each violation.

SEC. 373. Section 1741.1 of the Labor Code is amended to read:

1741.1. (a) The period for service of assessments shall be tolled for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, including a determination on administrative appeal, if applicable, pursuant to subdivisions (b) and (c) of Section 1773.5. The period for service of assessments shall also be tolled for the period of time that a contractor or subcontractor fails to provide in a timely manner certified payroll records pursuant to a request from the Labor Commissioner or a joint labor-management committee under Section 1776, or an approved labor compliance program under Section 1771.5 or 1771.7.

(b) (1) The body awarding the contract for *a* public work shall furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work filed in the office of the county recorder, or a document evidencing the awarding body's acceptance of the public work on a particular date, whichever occurs later, by first-class mail addressed to the office of the Labor Commissioner that is listed on the written request. If, at the time of receipt of the Labor Commissioner's written request, a valid notice of completion has

not been filed by the awarding body in the office of the county recorder and there is no document evidencing the awarding body's acceptance of the public work on a particular date, the awarding body shall so notify the office of the Labor Commissioner that is listed on the written request. Thereafter, the awarding body shall furnish copies of the applicable document within 10 days after filing a valid notice of completion with the county recorder's office, or within 10 days of the awarding body's acceptance of the public work on a particular date.

(2) If the awarding body fails to timely furnish the Labor Commissioner with the documents identified in paragraph (1), the period for service of assessments under Section 1741 shall be tolled until the Labor Commissioner's actual receipt of the valid notice of completion for the public work or a document evidencing the awarding body's acceptance of the public work on a particular date.

(c) The tolling provisions in this section shall also apply to the period of time for commencing an action brought by a joint labor-management committee pursuant to Section 1771.2.

SEC. 374. Section 5406 of the Labor Code is amended to read:

5406. (a) Except as provided in Section 5406.5, 5406.6, or 5406.7, the period within which may be commenced proceedings for the collection of the benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from:

(1) The date of death if death occurs within one year from date of injury.

(2) The date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, if death occurs more than one year from the date of injury.

(3) The date of death, ~~where~~ *if* death occurs more than one year after the date of injury and compensation benefits have been furnished.

(b) Proceedings shall not be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

SEC. 375. Section 6319 of the Labor Code is amended to read:

6319. (a) If, after an inspection or investigation, the division issues a citation pursuant to Section 6317 or an order pursuant to Section 6308, it shall, within a reasonable time after the termination

of the inspection or investigation, notify the employer by certified mail of the citation or order, and that the employer has 15 working days from receipt of the notice within which to notify the appeals board that he or she wishes to contest the citation or order for any reason set forth in Section 6600 or 6600.5.

(b) ~~Any~~ *An* employer served by certified mail with a notice of civil penalty may appeal to the appeals board within 15 working days from receipt of that notice for any reason set forth in Section 6600. If the citation is issued for a violation involving the condition or operation of any machine, device, apparatus, or equipment, and a person other than the employer is obligated to the employer to repair the machine, device, apparatus, or equipment and to pay any penalties assessed against the employer, the other person may appeal to the appeals board within 15 working days of the receipt of the citation by the employer for any reasons set forth in Section 6600.

(c) The director shall promulgate regulations covering the assessment of civil penalties under this chapter which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The size of the business of the employer being charged.

(2) The gravity of the violation.

(3) The good faith of the employer, including timely abatement.

(4) The history of previous violations.

(d) Notwithstanding subdivision (c), if serious injury, illness, exposure, or death is caused by ~~any~~ *a* serious, willful, or repeated violation, or by ~~any~~ *a* failure to correct a serious violation within the time permitted for its correction, the penalty shall not be reduced for ~~any~~ *a* reason other than the size of the business of the employer being charged. Whenever the division issues a citation for a violation covered by this subdivision, it shall notify the employer of its determination that serious injury, illness, exposure or death was caused by the violation and shall, upon request, provide the employer with a copy of the inspection report.

(e) The employer ~~shall~~ *is* not ~~be~~ liable for a civil penalty under this part for any citation issued by a division representative providing consulting services pursuant to Sections 6354 and 6355.

(f) Whenever a citation of a self-insured employer for a ~~willful,~~ *willful* or repeat serious violation of the standard adopted pursuant to Section 6401.7 becomes final, the division shall notify the

director so that a hearing may be held to determine whether good cause exists to revoke the employer's certificate of consent to self-insure as provided in Section 3702.

(g) Based upon the evidence, the division may propose appropriate modifications concerning the characterization of violations and corresponding modifications to civil penalties as a result thereof. For serious violations, the division shall not grant a proposed modification to civil penalties for abatement or credit for abatement unless the employer has done any of the following:

(1) Abated the violation at the time of the initial inspection.

(2) Abated the violation at the time of a subsequent inspection prior to the issuance of a citation.

(3) Submitted a signed statement under penalty of perjury and supporting evidence, when necessary to prove abatement, in accordance with subdivision (b) of Section 6320.

SEC. 376. Section 6404.5 of the Labor Code is amended to read:

6404.5. (a) The Legislature finds and declares that regulation of smoking in the workplace is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this section to prohibit the smoking of tobacco products in all (100 percent of) enclosed places of employment in this state, as covered by this section, thereby eliminating the need of local governments to enact workplace smoking restrictions within their respective jurisdictions. It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the smoking of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions. Notwithstanding any other provision of this section, it is the intent of the Legislature that ~~any~~ *an* area not defined as a "place of employment" pursuant to subdivision (d) or in which the smoking of tobacco products is not regulated pursuant to subdivision (e) ~~shall be~~ *is* subject to local regulation of smoking of tobacco products.

(b) ~~No~~ *An* employer shall *not* knowingly or intentionally permit, and ~~no~~ *a* person shall *not* engage in, the smoking of tobacco

products in an enclosed space at a place of employment. "Enclosed space" includes lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (d).

(c) For purposes of this section, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally in violation of this section if he or she has taken the following reasonable steps to prevent smoking by a nonemployee:

(1) Posted clear and prominent signs, as follows:

(A) Where smoking is prohibited throughout the building or structure, a sign stating "No smoking" shall be posted at each entrance to the building or structure.

(B) Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is prohibited except in designated areas" shall be posted at each entrance to the building or structure.

(2) Has requested, when appropriate, that a nonemployee who is smoking refrain from smoking in the enclosed workplace.

For purposes of this subdivision, "reasonable steps" does not include (A) the physical ejection of a nonemployee from the place of employment or (B) any requirement for making a request to a nonemployee to refrain from smoking, under circumstances involving a risk of physical harm to the employer or any employee.

(d) For purposes of this section, "place of employment" does not include any of the following:

(1) Sixty-five percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment.

(2) Areas of the lobby in a hotel, motel, or other similar transient lodging establishment designated for smoking by the establishment. An establishment may permit smoking in a designated lobby area that does not exceed 25 percent of the total floor area of the lobby or, if the total area of the lobby is 2,000 square feet or less, that does not exceed 50 percent of the total floor area of the lobby. For purposes of this paragraph, "lobby" means the common public area of an establishment in which registration and other similar or related transactions, or both, are conducted and in which the establishment's guests and members of the public typically congregate.

(3) Meeting and banquet rooms in a hotel, motel, other transient lodging establishment similar to a hotel or motel, restaurant, or public convention center, except while food or beverage functions are taking place, including setup, service, and cleanup activities, or when the room is being used for exhibit purposes. At times when smoking is not permitted in a meeting or banquet room pursuant to this paragraph, the establishment may permit smoking in corridors and prefunction areas adjacent to and serving the meeting or banquet room if no employee is stationed in that corridor or area on other than a passing basis.

(4) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph:

(A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

(B) "Retail or wholesale tobacco shop" means any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

(5) Cabs of motortrucks, as defined in Section 410 of the Vehicle Code, or truck tractors, as defined in Section 655 of the Vehicle Code, if ~~no~~ nonsmoking employees are *not* present.

(6) Warehouse facilities. For purposes of this paragraph, "warehouse facility" means a warehouse facility with more than 100,000 square feet of total floorspace, and 20 or fewer full-time employees working at the facility, but does not include any area within a facility that is utilized as office space.

(7) Gaming clubs, in which smoking is permitted by subdivision (f). For purposes of this paragraph, "gaming club" means any gaming club, as defined in Section 19802 of the Business and Professions Code, or bingo facility, as defined in Section 326.5 of the Penal Code, that restricts access to minors under 18 years of age.

(8) Bars and taverns, in which smoking is permitted by subdivision (f). For purposes of this paragraph, "bar" or "tavern" means a facility primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises, in which the serving of food is incidental. "Bar or tavern" includes those facilities located within a hotel, motel, or other similar transient

occupancy establishment. However, when located within a building in conjunction with another use, including a restaurant, "bar" or "tavern" includes only those areas used primarily for the sale and service of alcoholic beverages. "Bar" or "tavern" does not include the dining areas of a restaurant, regardless of whether alcoholic beverages are served therein.

(9) Theatrical production sites, if smoking is an integral part of the story in the theatrical production.

(10) Medical research or treatment sites, if smoking is integral to the research and treatment being conducted.

(11) Private residences, except for private residences licensed as family day care ~~homes,~~ *homes* where smoking is prohibited pursuant to Section 1596.795 of the Health and Safety Code.

(12) Patient smoking areas in long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(13) Breakrooms designated by employers for smoking, provided that all of the following conditions are met:

(A) Air from the smoking room shall be exhausted directly to the outside by an exhaust fan. Air from the smoking room shall not be recirculated to other parts of the building.

(B) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency.

(C) The smoking room shall be located in a nonwork area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this subparagraph, "work responsibilities" does not include any custodial or maintenance work carried out in the breakroom when it is unoccupied.

(D) There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

(14) Employers with a total of five or fewer employees, either full time or part time, may permit smoking where all of the following conditions are met:

(A) The smoking area is not accessible to minors.

(B) All employees who enter the smoking area consent to permit smoking. No one, as part of his or her work responsibilities, shall be required to work in an area where smoking is permitted. An employer who is determined by the division to have used coercion to obtain consent or who has required an employee to work in the smoking area shall be subject to the penalty provisions of Section 6427.

(C) Air from the smoking area shall be exhausted directly to the outside by an exhaust fan. Air from the smoking area shall not be recirculated to other parts of the building.

(D) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency.

This paragraph shall not be construed to (i) supersede or render inapplicable any condition or limitation on smoking areas made applicable to specific types of business establishments by any other paragraph of this subdivision or (ii) apply in lieu of any otherwise applicable paragraph of this subdivision that has become inoperative.

(e) Paragraphs (13) and (14) of subdivision (d) shall not be construed to require employers to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers.

(f) (1) Except as otherwise provided in this subdivision, smoking may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in paragraph (8) of subdivision (d), until the earlier of the following:

(A) January 1, 1998.

(B) The date of adoption of a regulation (i) by the Occupational Safety and Health Standards Board reducing the permissible employee exposure level to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees or (ii) by the federal Environmental Protection Agency establishing a standard for reduction of

permissible exposure to environmental tobacco smoke to an exposure level that will prevent anything other than insignificantly harmful effects to exposed persons.

(2) If a regulation specified in subparagraph (B) of paragraph (1) is adopted on or before January 1, 1998, smoking may thereafter be permitted in gaming clubs and in bars and taverns, subject to full compliance with, or conformity to, the standard in the regulation within two years following the date of adoption of the regulation. An employer failing to achieve compliance with, or conformity to, the regulation within this two-year period shall prohibit smoking in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the Occupational Safety and Health Standards Board shall be no less stringent than the regulations of the federal Environmental Protection Agency.

(3) If a regulation specified in subparagraph (B) of paragraph (1) is not adopted on or before January 1, 1998, the exemptions specified in paragraphs (7) and (8) of subdivision (d) shall become inoperative on and after January 1, 1998, until a regulation is adopted. Upon adoption of such a regulation on or after January 1, 1998, smoking may thereafter be permitted in gaming clubs and in bars and taverns, subject to full compliance with, or conformity to, the standard in the regulation within two years following the date of adoption of the regulation. An employer failing to achieve compliance with, or conformity to, the regulation within this two-year period shall prohibit smoking in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the Occupational Safety and Health Standards Board shall be no less stringent than the regulations of the federal Environmental Protection Agency.

(4) From January 1, 1997, to December 31, 1997, inclusive, smoking may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in

paragraph (8) of subdivision (d), subject to both of the following conditions:

(A) If practicable, the gaming club or bar or tavern shall establish a designated nonsmoking area.

(B) If feasible, ~~no~~ *an* employee shall *not* be required, in the performance of ordinary work responsibilities, to enter any area in which smoking is permitted.

(g) The smoking prohibition set forth in this section ~~shall constitute~~ *constitutes* a uniform statewide standard for regulating the smoking of tobacco products in enclosed places of employment and ~~shall supersede~~ *supersedes* and render unnecessary the local enactment or enforcement of local ordinances regulating the smoking of tobacco products in enclosed places of employment. Insofar as the smoking prohibition set forth in this section is applicable to all (100-percent) places of employment within this state and, therefore, provides the maximum degree of coverage, the practical effect of this section is to eliminate the need of local governments to enact enclosed workplace smoking restrictions within their respective jurisdictions.

(h) ~~Nothing in this~~ *This* section ~~shall~~ *does not* prohibit an employer from prohibiting smoking in an enclosed place of employment for any reason.

(i) The enactment of local regulation of smoking of tobacco products in enclosed places of employment by local governments shall be suspended only for as long as, and to the extent that, the (100-percent) smoking prohibition provided for in this section remains in effect. In the event this section is repealed or modified by subsequent legislative or judicial action so that the (100-percent) smoking prohibition is no longer applicable to all enclosed places of employment in California, local governments shall have the full right and authority to enforce previously enacted, and to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment within their jurisdictions, including a complete prohibition of smoking. Notwithstanding any other provision of this section, ~~any~~ *an* area not defined as a "place of employment" or in which smoking is not regulated pursuant to subdivision (d) or (e), ~~shall be~~ *is* subject to local regulation of smoking of tobacco products.

(j) ~~Any~~ *A* violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred

dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body.

(k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year.

(*l*) If ~~any~~ *a* provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 377. Section 6625 of the Labor Code is amended to read:

6625. (a) (1) Except as provided in subdivision (b), the filing of a petition for reconsideration ~~shall suspend~~ *suspends* for a period of 10 days the order or decision affected, insofar as it applies to the parties to the petition, unless otherwise ordered by the appeals board.

(2) Except as provided in subdivision (b), the appeals ~~board~~ *board,* upon the terms and conditions which it by order directs, may stay, suspend, or postpone the order or decision during the pendency of the reconsideration.

(b) The filing of a petition for, or the pendency of, reconsideration of a final order or decision involving a citation classified as serious, repeat serious, or willful serious ~~shall~~ *does* not stay or suspend the requirement to abate the hazards affirmed by the decision or order unless the employer demonstrates by a preponderance of the evidence that a stay or suspension of abatement will not adversely affect the health and safety of employees. The employer must request a stay or suspension of abatement by filing a written, verified petition with supporting declarations within 10 days after the issuance of the order or decision.

SEC. 378. Section 7873 of the Labor Code is amended to read:

7873. (a) As used in this section, “trade secret” means a trade secret as defined in subdivision (d) of Section 6254.7 of the

Government Code or Section 1061 of the Evidence Code, and shall include the schedule submitted to the division pursuant to subdivision (b) of Section 7872 of this code, and the scheduling, duration, layout, configuration, and type of work to be performed during a turnaround. Upon completion of a turnaround, the scheduling and duration of that turnaround shall no longer be considered a trade secret. The wages, hours, benefits, job classifications, and training standards for employees performing work for petroleum refinery employers is not a trade secret.

(b) (1) If a petroleum refinery employer believes that information submitted to the division pursuant to Section 7872 may involve the release of a trade secret, the petroleum refinery employer shall nevertheless provide this information to the division. The petroleum refinery employer may, at the time of submission, identify all or a portion of the information submitted to the division as trade secret and, to the extent feasible, segregate records designated as trade secret from the other records.

(2) Subject to subdivisions (c), (d), and (e), the division shall not release to the public any information designated as a trade secret by the petroleum refinery employer pursuant to paragraph (1).

(c) (1) Upon the receipt of a request for the release of information to the public that includes information that the petroleum refinery employer has notified the division is a trade secret pursuant to paragraph (1) of subdivision (b), the division shall notify the petroleum refinery employer in writing of the request by certified mail, return receipt requested.

(2) The division shall release the requested information to the public, unless both of the following occur:

(A) Within 30 days of receipt of the notice of the request for information, the ~~refinery~~ petroleum *refinery* employer files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) and promptly notifies the division of that action.

(B) Within 120 days of receipt of the notice of the request for information, the ~~refinery~~ petroleum *refinery* employer obtains an order prohibiting disclosure of the information to the public and promptly notifies the division of that action.

(3) This subdivision shall not be construed to allow a petroleum refinery employer to refuse to disclose the information required pursuant to this section to the division.

(d) (1) Except as provided in subdivision (c), ~~any~~ information that has been designated as a trade secret by a petroleum refinery employer shall not be released to any member of the public, except that ~~such~~ *this* information may be disclosed to other officers or employees of the division when relevant in ~~any~~ *a* proceeding of the division.

(2) If the person requesting the release of the information or the petroleum refinery employer files an action to order or prohibit disclosure of trade secret information, the person instituting the proceeding shall name the person or the petroleum refinery employer as a real party in interest.

(A) The petroleum refinery employer filing an action pursuant to paragraph (2) of subdivision (c) shall provide notice of the action to the person requesting the release of the information at the same time that the defendant in the action is served.

(B) The person filing an action to compel the release of information that includes information that the petroleum refinery employer has notified the division is a trade secret pursuant to paragraph (1) of subdivision (b) shall provide notice of the action to the petroleum refinery employer that submitted the information at the same time that the defendant in the action is served.

(3) The court shall award costs and reasonable attorneys' fees to the party that prevails in litigation filed pursuant to this section. The public agency shall not bear the court costs for any party named in litigation filed pursuant to this section.

(e) This section shall not be construed to prohibit the exchange of trade secrets between local, state, or federal public agencies or state officials when those trade secrets are relevant and reasonably necessary to the exercise of their authority.

(f) An officer or employee of the division who, by virtue of that employment or official position, has possession of, or has access to, trade secret information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to a person he or she knows is not entitled to receive it, is guilty of a misdemeanor. A contractor with the division and an employee of the contractor, who has been furnished information as authorized

by this section, shall be considered an employee of the division for purposes of this section.

SEC. 379. Section 19.8 of the Penal Code is amended to read:

19.8. (a) The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13, and 853.7 of this code; subdivision (c) of Section 532b, and subdivision (o) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 21672, 25661, and 25662 of the Business and Professions Code; Section 27204 of the Government Code; subdivision (c) of Section 23109 and Sections 5201.1, 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense that the Legislature makes subject to subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for a violation of those sections, a violation that is an infraction is punishable by a fine not exceeding two hundred fifty dollars ($250).

(b) Except in cases where a different punishment is prescribed, every offense declared to be an infraction is punishable by a fine not exceeding two hundred fifty dollars ~~($250)~~ *($250)*.

(c) Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for an offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension, revocation, or denial of a license, or for the revocation of probation or parole of the person convicted.

SEC. 380. Section 132.5 of the Penal Code, as amended by Section 223 of Chapter 62 of the Statutes of 2003, is amended to read:

132.5. (a) The Legislature supports and affirms the constitutional right of every person to communicate on any subject. This section is intended to preserve the right of every accused person to a fair trial, the right of the people to due process of law, and the integrity of judicial proceedings. This section is not intended to prevent any person from disseminating any information or opinion.

The Legislature hereby finds and declares that the disclosure for valuable consideration of information relating to crimes by prospective witnesses can cause the loss of credible evidence in criminal trials and threatens to erode the reliability of verdicts.

The Legislature further finds and declares that the disclosure for valuable consideration of information relating to crimes by prospective witnesses creates an appearance of injustice that is destructive of public confidence.

(b) A person who is a witness to an event or occurrence that he or she knows is a crime or who has personal knowledge of facts that he or she knows or reasonably should know may require that person to be called as a witness in a criminal prosecution shall not accept or receive, directly or indirectly, any money or its equivalent in consideration for providing information obtained as a result of witnessing the event or occurrence or having personal knowledge of the facts.

(c) ~~Any~~ *A* person who is a witness to an event or occurrence that he or she reasonably should know is a crime shall not accept or receive, directly or indirectly, any money or its equivalent in consideration for providing information obtained as a result of his or her witnessing the event or occurrence.

(d) The Attorney General or the district attorney of the county in which an alleged violation of subdivision (c) occurs may institute a civil proceeding. Where a final judgment is rendered in the civil proceeding, the defendant shall be punished for the violation of subdivision (c) by a fine equal to 150 percent of the amount received or contracted for by the person.

(e) A violation of subdivision (b) is a misdemeanor punishable by imprisonment for a term not exceeding six months in a county jail, a fine not exceeding three times the amount of compensation requested, accepted, or received, or both the imprisonment and fine.

(f) This section does not apply if more than one year has elapsed from the date of any criminal act related to the information that is provided under subdivision (b) or (c) unless prosecution has commenced for that criminal act. If prosecution has commenced, this section shall remain applicable until the final judgment in the action.

(g) This section does not apply to any of the following circumstances:

(1) Lawful compensation paid to expert witnesses, investigators, employees, or agents by a prosecutor, law enforcement agency, or an attorney employed to represent a person in a criminal matter.

(2) Lawful compensation provided to an informant by a prosecutor or law enforcement agency.

(3) Compensation paid to a publisher, editor, reporter, writer, or other person connected with or employed by a newspaper, magazine, or other publication or a television or radio news reporter or other person connected with a television or radio station, for disclosing information obtained in the ordinary course of business.

(4) Statutorily authorized rewards offered by governmental agencies or private reward programs offered by victims of crimes for information leading to the arrest and conviction of specified offenders.

(5) Lawful compensation provided to a witness participating in the Witness ~~Protection~~ *Relocation and Assistance* Program established pursuant to Title 7.5 (commencing with Section 14020) of Part 4.

(h) For purposes of this section, "information" does not include a photograph, videotape, audiotape, or any other direct recording of an event or occurrence.

(i) For purposes of this section, "victims of crimes" shall be construed in a manner consistent with Section 28 of Article I of the California Constitution, and shall include victims, as defined in subdivision (3) of Section 136.

SEC. 381. Section 264.2 of the Penal Code is amended to read:

264.2. (a) Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph ~~(G)~~ *(H)* of paragraph (9) of subdivision (c) of Section 13701.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in Section 1035.2 of the

Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, a victim shall be notified orally or in writing by the medical provider that the victim has the right to have present a sexual assault counselor and at least one other support person of the victim's choosing.

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

SEC. 382. Section 295.2 of the Penal Code is amended to read:

295.2. The DNA and forensic identification database and ~~data bank~~ *databank* and the Department of Justice DNA Laboratory shall not be used as a source of genetic material for testing, research, or experiments, by any person, agency, or entity seeking to find a causal link between genetics and behavior or health.

SEC. 383. Section 300.2 of the Penal Code, as added by Section 2 of Chapter 696 of the Statutes of 1998, is amended and renumbered to read:

~~300.2.~~

300.4. The provisions of this chapter are severable. If any provision of this chapter 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.

SEC. 384. Section 308 of the Penal Code is amended to read:

308. (a) (1) Every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or ~~blunts~~ *blunt* wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars

($200) for the first offense, five hundred dollars ($500) for the second offense, and one thousand dollars ($1,000) for the third offense.

Notwithstanding Section 1464 or any other law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action, and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the city or county for the administration and cost of the community service work component provided in subdivision (b).

Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the Armed Forces.

For purposes of this section, the person liable for selling or furnishing tobacco products to minors by a tobacco vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco vending machine will be utilized by minors.

(2) For purposes of this section, "blunt wraps" means cigar papers or cigar wrappers of all types that are designed for smoking or ingestion of tobacco products and contain less than 50 percent tobacco.

(b) Every person under the age of 18 years who purchases, receives, or possesses any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco, or any controlled substance shall, upon conviction, be punished by a fine of seventy-five dollars ($75) or 30 hours of community service work.

(c) Every person, firm, or corporation that sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business at each point of purchase the notice required pursuant to subdivision (b) of Section 22952 of the Business and Professions Code, and any person failing to do so shall, upon conviction, be punished by a fine of fifty dollars ($50) for the first offense, one hundred dollars ($100) for the second offense, two hundred fifty dollars ($250) for the third offense, and five hundred dollars ($500) for the fourth offense and each subsequent violation of this provision, or by imprisonment in a county jail not exceeding 30 days.

(d) For purposes of determining the liability of persons, firms, or corporations controlling franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

(e) Notwithstanding subdivision (b), any person under 18 years of age who purchases, receives, or possesses any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, any other instrument or paraphernalia that is designed for the smoking of tobacco, or products prepared from tobacco is immune from prosecution for that purchase, receipt, or possession while participating in either of the following:

(1) An enforcement activity that complies with the guidelines adopted pursuant to subdivisions (c) and (d) of Section 22952 of the Business and Professions Code.

(2) An activity conducted by the State Department of Public Health, a local health department, or a law enforcement agency for the purpose of determining or evaluating youth tobacco purchase rates.

(f) It is the Legislature's intent to regulate the subject matter of this section. As a result, a city, county, or city and county shall not adopt any ordinance or regulation inconsistent with this section.

SEC. 385. Section 602 of the Penal Code is amended to read:

602. Except as provided in subdivisions (u), (v), and (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~~ *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) shall 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, ~~or~~ the owner's agent, or ~~of~~ the person in lawful possession, and any of the following:

(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.

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands.

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands.

(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~~ *does* 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 12 months when the premises or property is closed to the public and posted as being closed. The requestor shall inform the law enforcement agency to which the request was made when the assistance is no longer desired, before the period not exceeding

12 months expires. The request for assistance shall expire upon transfer of ownership of the property or upon a change in the person in lawful possession. However, this subdivision ~~shall~~ *does* not ~~be applicable~~ *apply* to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code) or by the federal National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for ~~tenants~~ *tenants,* as defined ~~under~~ *in* Section 34213.5 of the Health and Safety ~~Code~~ *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, 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~~ *that* is closed to the public and ~~which~~ *that* 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~~ *applies* 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~~ *applies* without time limitation. Where the person has been convicted of any other felony, this subdivision ~~shall apply~~ *applies* for no more than five years from the date of conviction. Where the person has been convicted of a misdemeanor, this subdivision ~~shall apply~~ *applies* 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~~ *applies* for no more than one year from the date of conviction. This subdivision ~~shall~~ *does* 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~~ *applies* 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~~ *A* 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 subdivision (u), or public transit facility, as defined in Section ~~171.5,~~ *171.7,* 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~~ *A* 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. 386. Section 626.9 of the Penal Code is amended to read:

626.9. (a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.

(b) ~~Any~~ *A* person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (1) of subdivision (e), unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished as specified in subdivision (f).

(c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:

(1) Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

(2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

This section does not prohibit or limit the otherwise lawful transportation of any other firearm, other than a pistol, revolver, or other firearm capable of being concealed on the person, in accordance with state law.

(3) When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating subdivision (b), the trier of a fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(4) When the person is exempt from the prohibition against carrying a concealed firearm pursuant to Section 25615, 25625, 25630, or 25645.

(d) Except as provided in subdivision (b), it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (1) of subdivision (e).

The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of paragraph (1) of subdivision (c) are satisfied.

(e) As used in this section, the following definitions shall apply:

(1) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(2) "Firearm" has the same meaning as that term is given in subdivisions (a) to (d), inclusive, of Section 16520.

(3) "Locked container" has the same meaning as that term is given in Section 16850.

(4) "Concealed firearm" has the same meaning as that term is given in Sections 25400 and 25610.

(f) (1) Any person who violates subdivision (b) by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years.

(2) Any person who violates subdivision (b) by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

(A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in Section 16580.

(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to Section 25400.

(B) By imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170

for two, three, or five years, in all cases other than those specified in subparagraph (A).

(3) Any person who violates subdivision (d) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

(g) (1) Every person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) Every person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by any provision listed in Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 25605, ~~any~~ *a* person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or

college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding Section 25605, ~~any~~ *a* person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(*l*) This section does not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers 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 who is 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, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in subdivision ~~(e)~~ *(d)* of Section ~~7521~~ *7582.1* of the Business and Professions Code.

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to any of the following:

(1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

(2) Section 25650.

(3) Sections 25900 to 25910, inclusive.

(4) Section 26020.

SEC. 387. Section 814 of the Penal Code is amended to read:

814. A warrant of arrest issued under Section 813 may be in substantially the following form:

County of ____

The people of the State of California to any peace officer of said State:

Complaint on oath having this day been laid before me that the crime of ____ (designating it generally) has been committed and accusing ____ (naming defendant) thereof, you are therefore commanded forthwith to arrest the above named defendant and bring him *or her* before me at ____ (naming the place), or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at _____ (place) this _____ day of _____,

20__.

_____

(Signature and full official title of magistrate.)

SEC. 388. Section 830.14 of the Penal Code is amended to read:

830.14. (a) A local or regional transit agency or a joint powers agency operating rail service identified in an implementation program adopted pursuant to Article 10 (commencing with Section 130450) of Chapter 4 of Division 12 of the Public Utilities Code may authorize by contract designated persons as conductors performing fare inspection duties who are employed by a railroad corporation that operates public rail commuter transit services for that agency to act as its agent in the enforcement of subdivisions (a) to (d), inclusive, of Section 640 relating to the operation of the rail service if they complete the training requirement specified in this section.

(b) The governing board of the Altamont Commuter Express Authority, a joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the Alameda *County* Congestion Management Agency, the Santa Clara ~~County Transit District,~~ *Valley Transportation Authority,* and the San Joaquin Regional Rail Commission, may contract with designated persons to act as its agents in the enforcement of subdivisions (a) to (d), inclusive, of Section 640 relating to the operation of a public transportation system if these persons complete the training requirement specified in this section.

(c) The governing board of the Peninsula Corridor Joint Powers Board, a joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the San Mateo County Transit District, the Santa Clara ~~County Transit District,~~ *Valley Transportation Authority,* and the City and County of San Francisco, may appoint designated persons to act as its agents in the enforcement of subdivisions (a) to (d), inclusive, of Section 640 relating to the operation of a public transportation system if these persons complete the training requirement specified in this section.

(d) The governing board of Foothill Transit, a joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the Cities of Arcadia, Azusa, Baldwin Park, Bradbury, Claremont, Covina, Diamond Bar, Duarte,

El Monte, Glendora, Industry, Irwindale, La Habra Heights, La Puente, La Verne, Monrovia, Pomona, San Dimas, South El Monte, Temple City, Walnut, West Covina, and the County of Los Angeles, may resolve to contract with designated persons to act as its agents in the enforcement of subdivisions (a) to (d), inclusive, of Section 640 relating to the operation of a public transportation system if these persons complete the training requirement specified in this section.

(e) The governing board of the Sacramento Regional Transit District, a transit district duly formed pursuant to Part 14 (commencing with Section 102000) of Division 10 of the Public Utilities Code, may designate persons regularly employed by the district as inspectors or supervisors to enforce subdivisions (a) to (d), inclusive, of Section 640, relating to the operation of a public transportation system, and any ordinance adopted by the district pursuant to subdivision (a) of Section 102122 of the Public Utilities Code, if these persons complete the training requirement specified in this section.

(f) The governing board of a transit district, as defined in subdivision (b) of Section 99170 of the Public Utilities Code, may designate employees, except for union-represented employees employed to drive revenue-generating transit vehicles, or security officers contracted by the transit district, to enforce subdivisions (a) to (d), inclusive, of Section 640, and Section 640.5, and violations of Section 99170 of the Public Utilities Code.

(g) Persons authorized pursuant to this section to enforce subdivisions (a) to (d), inclusive, of Section 640, or Section 640.5, or Section 99170 of the Public Utilities Code, shall complete a specialized fare compliance course that shall be provided by the authorizing agency. This training course shall include, but not be limited to, the following topics:

(1) An overview of barrier-free fare inspection concepts.

(2) The scope and limitations of inspector authority.

(3) Familiarization with the elements of the infractions enumerated in subdivisions (a) to (d), inclusive, of Section 640, and, as applicable, the crimes enumerated in Section 640.5, and Section 99170 of the Public Utilities Code.

(4) Techniques for conducting fare checks, including inspection procedures, demeanor, and contacting violators.

(5) Citation issuance and court appearances.

(6) Fare media recognition.

(7) Handling argumentative violators and diffusing conflict.

(8) The mechanics of law enforcement support and interacting with law enforcement for effective incident resolution.

(h) Persons described in this section are public officers, not peace officers, have no authority to carry firearms or any other weapon while performing the duties authorized in this section, and may not exercise the powers of arrest of a peace officer while performing the duties authorized in this section. These persons may be authorized by the agencies specified in this section to issue citations involving infractions relating to the operation of the rail service specified in this section.

(i) ~~Nothing in this~~ *This* section ~~shall~~ *does not* affect the retirement or disability benefits provided to employees described in this section or be in violation of any collective bargaining agreement between a labor organization and a railroad corporation.

(j) Notwithstanding any other provision of this section, the primary responsibility of a conductor of a commuter passenger train shall be functions related to safe train operation.

SEC. 389. The heading of Chapter 5a (commencing with Section 852) of Title 3 of Part 2 of the Penal Code is amended and renumbered to read:

CHAPTER ~~5a.~~*5A.* UNIFORM ACT ON FRESH PURSUIT

SEC. 390. Section 1191.15 of the Penal Code is amended to read:

1191.15. (a) The court may permit the victim of any crime, his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to file with the court a written, audiotaped, or videotaped statement, or statement stored on a ~~CD Rom,~~ *CD-ROM,* DVD, or any other recording medium acceptable to the court, expressing his or her views concerning the crime, the person responsible, and the need for restitution, in lieu of or in addition to the person personally appearing at the time of judgment and sentence. The court shall consider the statement filed with the court prior to imposing judgment and sentence.

Whenever an audio or video statement or statement stored on a ~~CD Rom,~~ *CD-ROM,* DVD, or other medium is filed with the court, a written transcript of the statement shall also be provided by the

person filing the statement, and shall be made available as a public record of the court after the judgment and sentence have been imposed.

(b) Whenever a written, audio, or video statement or statement stored on a ~~CD Rom,~~ *CD-ROM,* DVD, or other medium is filed with the court, it shall remain sealed until the time set for imposition of judgment and sentence except that the court, the probation officer, and counsel for the parties may view and listen to the statement not more than two court days prior to the date set for imposition of judgment and sentence.

(c) ~~No person may, and no court shall,~~ *A person or a court shall not* permit any person to duplicate, copy, or reproduce by ~~any~~ audio or visual means ~~any~~ *a* statement submitted to the court under the provisions of this section.

(d) Nothing in this section shall be construed to prohibit the prosecutor from representing to the court the views of the victim, his or her parent or guardian, the next of kin, or the California Victim Compensation and Government Claims Board.

(e) In the event the court permits an audio or video statement or statement stored on a ~~CD Rom,~~ *CD-ROM,* DVD, or other medium to be filed, the court shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.

SEC. 391. Section 2905 of the Penal Code is amended to read:

2905. (a) For purposes of this section, a "youth offender" is an individual committed to the Department of Corrections and Rehabilitation who is under 22 years of age.

(b) (1) The department shall conduct a youth offender ~~Institution~~ *Institutional* Classification Committee review at reception to provide special classification consideration for every youth offender. The youth offender Institutional Classification Committee shall consist of the staff required by department regulations at any Institutional Classification Committee, however at least one member shall be a department staff member specially trained in conducting the reviews. Training shall include, but not be limited to, adolescent and young adult development and evidence-based interviewing processes employing positive and motivational techniques.

(2) The purpose of the youth offender Institutional Classification Committee review is to meet with the youth offender and assess

the readiness of a youth offender for a lower security level or placement permitting increased access to programs and to encourage the youth offender to commit to positive change and self-improvement.

(c) A youth offender shall be considered for placement at a lower security level than corresponds with his or her classification score or placement in a facility that permits increased access to programs based on the Institutional Classification Committee review and factors including, but not limited to, the following:

(1) Recent in-custody behavior while housed in juvenile or adult facilities.

(2) Demonstrated efforts of progress toward self-improvement in juvenile or adult facilities.

(3) Family or community ties supportive of rehabilitation.

(4) Evidence of commitment to working toward self-improvement with a goal of being a law-abiding member of society upon release.

(d) If the department determines, based on the review described in subdivisions (b) and ~~(c)~~ *(c),* that the youth offender may be appropriately placed at a lower security level, the department shall transfer the youth offender to a lower security level facility. If the youth offender is denied a lower security level, then he or she shall be considered for placement in a facility that permits increased access to programs. If the department determines a youth offender may appropriately be placed in a facility permitting increased access to programs, the youth offender shall be transferred to such a facility.

(e) If the youth offender demonstrates he or she is a safety risk to inmates, staff, or the public, and does not otherwise demonstrate a commitment to rehabilitation, the youth offender shall be reclassified and placed at a security level that is consistent with department regulations and procedures.

(f) A youth offender who at his or her initial ~~Youth Offender~~ *youth offender* Institutional Classification Committee review is denied a lower security level than corresponds with his or her placement score or did not qualify for *a* placement permitting increased access to programs due to previous incarceration history and was placed in the highest security level shall nevertheless be eligible to have his or her placement reconsidered pursuant to subdivisions (b) to (d), inclusive, at his or her annual review until

reaching 25 years of age. If at an annual review it is determined that the youth offender has had no serious rule violations for one year, the department shall consider whether the youth would benefit from placement in a lower level facility or placement permitting increased access to programs.

(g) The department shall review and, as necessary, revise existing regulations and adopt new regulations regarding classification determinations made pursuant to this section, and provide for training for staff.

(h) This section shall become operative on July 1, 2015.

SEC. 392. Section 3016 of the Penal Code is amended to read:

3016. (a) The Secretary of the Department of Corrections and Rehabilitation shall establish the Case Management Reentry Pilot Program for offenders under the jurisdiction of the department who have been sentenced to a term of imprisonment under Section 1170 and are likely to benefit from a case management reentry strategy designed to address homelessness, joblessness, mental disorders, and developmental disabilities among offenders transitioning from prison into the community. The purpose of the pilot program is to implement promising and evidence-based practices and strategies that promote improved public safety outcomes for offenders reentering society after serving a term in state prison and while released to parole.

(b) The program shall be initiated in at least three counties over three years, supported by department employees focusing primarily on case management services for eligible parolees selected for the pilot program. Department employees shall be experienced or trained to work as social workers with a parole population. Selection of a parolee for participation in the pilot program does not guarantee the availability of services.

(c) Case management social workers shall assist offenders on parole who are assigned to the program in managing basic needs, including housing, job training and placement, medical and mental health care, and any additional programming or responsibilities attendant to the terms of the offender's reentry requirements. Case management social workers also shall work closely with offenders to prepare, monitor, revise, and fulfill individualized offender reentry plans consistent with this section during the term of the program.

(d) Individualized offender reentry plans shall focus on connecting offenders to services for which the offender is eligible under existing federal, state, and local rules.

(e) Case management services shall be prioritized for offenders identified as potentially benefiting from assistance with the following:

(1) Food, including the immediate need and long-term planning for obtaining food.

(2) Clothing, including the immediate need to obtain appropriate clothing.

(3) Shelter, including obtaining housing consistent with the goals of the most independent, least restrictive and potentially durable housing in the local community and that are feasible for the circumstances of each reentering offender.

(4) Benefits, including, but not limited to, the California Work Opportunity and Responsibility to Kids program, general assistance, benefits administered by the federal Social Security Administration, Medi-Cal, and veterans benefits.

(5) Health services, including assisting parolee clients with accessing community mental health, medical, and dental treatment.

(6) Substance abuse services, including assisting parolee clients with obtaining community substance abuse treatment or related 12-step program information and locations.

(7) Income, including developing and implementing a feasible plan to obtain an income and employment reflecting the highest level of work appropriate for a reentering offender's abilities and experience.

(8) Identification cards, including assisting reentering offenders with obtaining state identification cards.

(9) Life skills, including assisting with the development of skills concerning money management, job interviewing, resume writing, and activities of daily living.

(10) Activities, including working with reentering offenders in choosing and engaging in suitable and productive activities.

(11) Support systems, including working with reentering offenders on developing a support system, which may consist of prosocial friends, family, and community groups and activities, such as religious activities, recovery groups, and other social events.

(12) Academic and vocational programs, including assisting reentering offenders in developing and implementing a realistic plan to achieve an academic education, or vocational training, or both.

(13) Discharge planning, including developing postparole plans to sustain parolees' achievements and goals to ~~insure~~ *ensure* long-term community success.

(f) The department shall contract for an evaluation of the pilot program that will assess its effectiveness in reducing recidivism among offenders transitioning from prison into the community.

(g) The department shall submit a final report of the findings from its evaluation of the pilot program to the Legislature and the Governor no later than three years after the enactment of Assembly Bill 1457 or Senate Bill 851 of the 2013−14 Regular Session. The report shall be submitted in compliance with Section 9795 of the Government Code.

(h) Implementation of this article is contingent on the availability of funds and the pilot program may be limited in scope or duration based on the availability of funds.

SEC. 393. Section 3043 of the Penal Code is amended to read:

3043. (a) (1) Upon request to the Department of Corrections and Rehabilitation and verification of the identity of the requester, notice of any hearing to review or consider the parole suitability or the setting of a parole date for any prisoner in a state prison shall be given by telephone, certified mail, regular mail, or electronic mail, using the method of communication selected by the requesting party, if that method is available, by the Board of Parole Hearings at least 90 days before the hearing to any victim of any crime committed by the prisoner, or to the next of kin of the victim if the victim has died, to include the commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, and any other felony crimes or crimes against the person for which the prisoner has been convicted. The requesting party shall keep the board apprised of his or her current contact information in order to receive the notice.

(2) No later than 30 days prior to the date selected for the hearing, any person, other than the victim, entitled to attend the hearing shall inform the board of his or her intention to attend the hearing and the name and identifying information of any other

person entitled to attend the hearing who will accompany him or her.

(3) No later than 14 days prior to the date selected for the hearing, the board shall notify every person entitled to attend the hearing confirming the date, time, and place of the hearing.

(b) (1) The victim, next of kin, members of the victim's family, and two representatives designated as provided in paragraph (2) of this subdivision have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the prisoner and the case, including, but not limited ~~to~~ *to*, the commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, any other felony crimes or crimes against the person for which the prisoner has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the prisoner for parole.

(2) ~~Any~~ *A* statement provided by a representative designated by the victim or next of kin may cover any subject about which the victim or next of kin has the right to be ~~heard~~ *heard*, including any recommendation regarding the granting of parole. The representatives shall be designated by the victim or, in the event that the victim is deceased or incapacitated, by the next of kin. They shall be designated in writing for the particular hearing prior to the hearing.

(c) A representative designated by the victim or the victim's next of kin for purposes of this section may be ~~any~~ *an* adult person selected by the victim or the family of the victim. The board shall permit a representative designated by the victim or the victim's next of kin to attend a particular hearing, to provide testimony at a hearing, and to submit a statement to be included in the hearing as provided in Section 3043.2, even though the victim, next of kin, or a member of the victim's immediate family is present at the hearing, and even though the victim, next of kin, or a member of the victim's immediate family has submitted a statement as described in Section 3043.2.

(d) The board, in deciding whether to release the person on parole, shall consider the entire and uninterrupted statements of the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next

of kin, if applicable, made pursuant to this section and shall include in its report a statement whether the person would pose a threat to public safety if released on parole.

(e) In those cases where there are more than two immediate family members of the victim who wish to attend any hearing covered in this section, the board shall allow attendance of additional immediate family members to include the following: spouse, children, parents, siblings, grandchildren, and grandparents.

SEC. 394. Section 3063.1 of the Penal Code is amended to read:

3063.1. (a) Notwithstanding any other provision of law, and except as provided in subdivision (d), parole ~~may~~ *shall* not be suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole.

As an additional condition of parole for all such offenses or violations, the Parole Authority shall require participation in and completion of an appropriate drug treatment program. Vocational training, family counseling and literacy training may be imposed as additional parole conditions.

The Parole Authority may require any person on parole who commits a nonviolent drug possession offense or violates any drug-related condition of parole, and who is reasonably able to do so, to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) does not apply to:

(1) Any parolee who has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(2) ~~Any~~ *A* parolee who, while on parole, commits one or more nonviolent drug possession offenses and is found to have concurrently committed a misdemeanor not related to the use of drugs or any felony.

(3) ~~Any~~ *A* parolee who refuses drug treatment as a condition of parole.

(c) Within seven days of a finding that the parolee has either committed a nonviolent drug possession offense or violated any drug-related condition of parole, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations shall notify the treatment provider designated to provide drug treatment under

subdivision (a). Within 30 days thereafter the treatment provider shall prepare an individualized drug treatment plan and forward it to the Parole Authority and to the California Department of Corrections and Rehabilitation, Division of Adult Parole Operations agent responsible for supervising the parolee. On a quarterly basis after the parolee begins drug treatment, the treatment provider shall prepare and forward a progress report on the individual parolee to these entities and individuals.

(1) If at any point during the course of drug treatment the treatment provider notifies the Department of Corrections and Rehabilitation, Division of Adult Parole Operations that the parolee is unamenable to the drug treatment provided, but amenable to other drug treatments or related programs, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations may act to modify the terms of parole to ensure that the parolee receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the Department of Corrections and Rehabilitation, Division of Adult Parole Operations that the parolee is unamenable to the drug treatment provided and all other forms of drug treatment provided pursuant to subdivision (b) of Section 1210 and the amenability factors described in subparagraph (B) of paragraph (3) of subdivision ~~(e)~~ *(f)* of Section 1210.1, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations may act to revoke parole. At the revocation hearing, parole may be revoked if it is proved that the parolee is unamenable to all drug treatment.

(3) Drug treatment services provided by subdivision (a) as a required condition of parole may not exceed 12 months, unless the Department of Corrections and Rehabilitation, Division of Adult Parole Operations makes a finding supported by the record that the continuation of treatment services beyond 12 months is necessary for drug treatment to be successful. If that finding is made, the Department of Corrections and Rehabilitation, Division of Adult Parole Operations may order up to two six-month extensions of treatment services. The provision of treatment services under this act shall not exceed 24 months.

(d) (1) If parole is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this

section. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others.

(2) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by committing an offense other than a nonviolent drug possession offense, or by violating a non-drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked.

Parole may be modified or revoked if the parole violation is proved.

(3) (A) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be intensified to achieve the goals of drug treatment.

(B) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment for the second time violates that parole either by committing a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

(C) If a parolee already on parole at the effective date of this act violates that parole either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use

of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in paragraph (1) of subdivision (d) of Section 1210, or by violating a drug-related condition of parole, and the Department of Corrections and Rehabilitation, Division of Adult Parole Operations acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be modified to include participation in a drug treatment program as provided in subdivision (a). This paragraph does not apply to any parolee who at the effective date of this act has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(D) If a parolee already on parole at the effective date of this act violates that parole for the second time either by committing a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the parole authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee may be reincarcerated or the conditions of parole may be intensified to achieve the goals of drug treatment.

(e) The term “drug-related condition of parole” shall include a parolee’s specific drug treatment regimen, and, if ordered by the Department of Corrections and Rehabilitation, Division of Adult Parole Operations pursuant to this section, employment, vocational training, educational programs, psychological counseling, and family counseling.

SEC. 395. Section 3440 of the Penal Code is amended to read:

3440. (a) Sterilization for the purpose of birth control, including, but not limited to, during labor and delivery, of an individual under the control of the department or a county and imprisoned in the state prison or a reentry facility, community correctional facility, county jail, or any other institution in which an individual is involuntarily confined or detained under a civil or criminal statute, is prohibited.

(b) Sterilization of an individual under the control of the department or a county and imprisoned in the state prison or a

reentry facility, community correctional facility, county jail, or any other institution in which an individual is involuntarily confined or detained under a civil or criminal statute, through tubal ligation, hysterectomy, oophorectomy, salpingectomy, or any other means rendering an individual permanently incapable of reproducing, is prohibited except in either of the following circumstances:

(1) The procedure is required for the immediate preservation of the individual's life in an emergency medical situation.

(2) The sterilizing procedure is medically necessary, as determined by contemporary standards of evidence-based medicine, to treat a diagnosed condition, and all of the following requirements are satisfied:

(A) Less invasive measures to address the medical need are nonexistent, are refused by the individual, or are first attempted and deemed unsuccessful by the individual, in consultation with his or her medical provider.

(B) A second ~~physician~~ *physician,* independent of, and not employed by, but authorized to provide services to individuals in the custody of, and to receive payment for those services from, the department or county department overseeing the confinement of the ~~individual~~ *individual,* conducts an in-person consultation with the individual and confirms the need for a medical intervention resulting in sterilization to address the medical need.

(C) Patient consent is obtained after the individual is made aware of the full and permanent impact the procedure will have on his or her reproductive capacity, that future medical treatment while under the control of the department or county will not be withheld should the individual refuse consent to the procedure, and the side effects of the procedure.

(c) If a sterilization procedure is performed pursuant to paragraph (1) or (2) of subdivision (b), presterilization and poststerilization psychological consultation and medical followup, including providing relevant hormone therapy to address surgical menopause, shall be made available to the individual sterilized while under the control of the department or the county.

(d) (1) The department shall, if a sterilization procedure is performed on one or more individuals under its control, annually publish on its Internet Web site data related to the number of

sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization.

(2) (A) Each county jail or other institution of confinement shall, if a sterilization procedure is performed on one or more individuals under its control, annually submit to the Board of State and Community Corrections data related to the number of sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization.

(B) The Board of State and Community Corrections shall annually publish the data received pursuant to subparagraph (A) on its Internet Web site.

(e) The department and all county jails or other institutions of confinement shall provide notification to all individuals under their custody and to all employees who are involved in providing health care services of their rights and responsibilities under this section.

(f) An employee of the department or of a county jail or other institution of confinement who reports the sterilization of an individual performed in violation of this section is entitled to the protection available under subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 6129, or under the California Whistleblower Protection Act (Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government Code) or the Whistleblower Protection Act (Article 10 (commencing with Section 9149.20) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code).

SEC. 396. Section 4501 of the Penal Code is amended to read:

4501. (a) Except as provided in Section 4500, every person confined in ~~a~~ *the* state prison of this state who commits an assault upon the person of another with a deadly weapon or instrument shall be guilty of a felony and shall be imprisoned in the state prison for two, four, or six years to be served consecutively.

(b) Except as provided in Section 4500, every person confined in ~~a~~ *the* state prison of this state who commits an assault upon the person of another by any means of force likely to produce great bodily injury shall be guilty of a felony and shall be imprisoned in the state prison for two, four, or six years to be served consecutively.

SEC. 397. Section 4852.08 of the Penal Code is amended to read:

4852.08. During the proceedings upon the petition, the petitioner may be represented by counsel of his *or her* own ~~selection; if he has no such counsel~~ *selection. If the petitioner does not have counsel,* he *or she* shall be represented by the public defender, if there is one in the county, and if there is none, by the adult probation officer of the ~~county~~ *county,* or if in the opinion of the court the petitioner needs counsel, the court shall assign counsel to represent ~~him.~~ *him or her.*

SEC. 398. Section 4852.11 of the Penal Code is amended to read:

4852.11. ~~Any~~ *A* peace officer shall report to the court, upon receiving a request as provided in Section 4852.1, all *known* violations of law committed by ~~said~~ *the* petitioner ~~which may come to his knowledge~~. Upon receiving satisfactory proof of ~~such~~ *a* violation the court may deny the petition and determine a new period of rehabilitation not to exceed the original period of rehabilitation for the same crime. In that event, before granting the petition, the court may ~~thereafter~~ require the petitioner to fulfill all the requirements provided to be fulfilled before the granting of the certificate under the original petition.

SEC. 399. Section 4852.12 of the Penal Code is amended to read:

4852.12. (a) In ~~any~~ *a* proceeding for the ascertainment and declaration of the fact of rehabilitation under this chapter, the court, upon the filing of the application for petition of rehabilitation, may request from the district attorney an investigation of the residence of the petitioner, the criminal record of the petitioner as shown by the records of the Department of Justice, any representation made to the court by the applicant, the conduct of the petitioner during ~~his~~ *the* period of rehabilitation, including all matters mentioned in Section 4852.11, and any other information the court ~~may deem~~ *deems* necessary in making its determination. ~~If so requested, the~~ *The* district attorney shall, *upon request of the court,* provide the court with a full and complete report of ~~such~~ *the* investigations.

(b) In any proceeding for the ascertainment and declaration of the fact of rehabilitation under this chapter of a person convicted of a crime the accusatory pleading of which has been dismissed pursuant to Section 1203.4, the district attorney, upon request of the court, shall deliver to the court the criminal record of petitioner as shown by the records of the Department of Justice. The district

attorney may investigate any representation made to the court by petitioner and may file with the court a report of the investigation including all matters known to the district attorney relating to the conduct ~~and~~ *of the petitioner, the* place and duration of residence of the petitioner during the period of ~~rehabilitation~~ *rehabilitation,* and all known violations of law committed by *the* petitioner.

SEC. 400. Section 4852.14 of the Penal Code is amended to read:

4852.14. The clerk of the court shall immediately transmit certified copies of the certificate of rehabilitation to the Governor, to the Board of ~~Prison Terms~~ *Parole Hearings* and the Department of Justice, and, in the case of persons twice convicted of a felony, to the Supreme Court.

SEC. 401. Section 4852.18 of the Penal Code is amended to read:

4852.18. The Board of ~~Prison Terms~~ *Parole Hearings* shall furnish to the clerk of the superior court of each county a set of sample forms for a petition for certificate of rehabilitation and pardon, a notice of filing of petition for certificate of rehabilitation and pardon, and a certificate of rehabilitation. The clerk of the court shall have a sufficient number of these forms printed to meet the needs of the people of the county, and shall make these forms available at no charge to persons requesting them.

SEC. 402. Section 11105.05 of the Penal Code is repealed.

~~11105.05. Any information generated pursuant to the provisions of paragraph (11) of subdivision (c) of Section 11105 shall be destroyed at the end of the limitation period for the filing of a civil action arising out of the screening or accreditation of persons as current or prospective employees, concessionaires and contractors and their subcontractors, agents and employees for Olympic Games purposes. The knowing and willful failure to (1) notify the recipient as required by Section 11105, or (2) to destroy any information as required by this section, is a misdemeanor punishable in a county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000) or both.~~

SEC. 403. Section 13510.5 of the Penal Code is amended to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing

minimum standards for training of peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by any railroad company, ~~the California State Police Division,~~ the University of California ~~Police Department,~~ *police department,* a California State University police department, the Department of Alcoholic Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and ~~Game,~~ *Wildlife,* the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, the Department of Motor Vehicles, the California Horse Racing Board, the ~~Bureau of~~ Food and ~~Drug,~~ *Drug Section of the State Department of Public Health,* the Division of Labor ~~Law~~ *Standards* Enforcement, the Director of Parks and Recreation, the State Department of Health Care Services, the Department of Toxic Substances Control, the State Department of Social Services, the State Department of State Hospitals, the State Department of Developmental Services, the Office of Statewide Health Planning and Development, and the Department of Justice. All rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 404. Section 13980 of the Penal Code is amended and renumbered to read:

~~13980. [13908.]~~

13908. (a) The Office of Criminal Justice Planning shall undertake a study to determine whether it would be feasible to develop a state-operated center on computer forensics for the purpose of collecting, compiling, and analyzing information, including evidence seized in connection with criminal proceedings, in computer formats to provide assistance to state and local law enforcement agencies in the investigation and prosecution of crimes involving computer technology.

(b) The office shall involve state and local law enforcement agencies as well as representatives of the computer industry in the development of the feasibility study required by this section.

(c) The office shall report its findings and conclusions to the Legislature on or before June 30, 2000.

SEC. 405. The heading of Title 6.7 (commencing with Section 13990) of Part 4 of the Penal Code is repealed.

~~TITLE 6.7. CALIFORNIA ALLIANCE TO COMBAT TRAFFICKING AND SLAVERY (CALIFORNIA ACTS) TASK FORCE~~

SEC. 406. Section 18115 of the Penal Code is amended to read:

18115. (a) The court shall notify the Department of Justice when a gun violence restraining order has been issued or renewed under this division no later than one court day after issuing or renewing the order.

(b) The court shall notify the Department of Justice when a gun violence restraining order has been dissolved or terminated under this division no later than five court days after dissolving or terminating the order. Upon receipt of either a notice of dissolution or a notice of termination of a gun violence restraining order, the Department of Justice shall, within 15 days, ~~note~~ document the updated status of any order issued under this division.

(c) The notices required to be submitted to the Department of Justice pursuant to this section shall be submitted in an electronic format, in a manner prescribed by the department.

(d) When notifying the Department of Justice pursuant to subdivision (a) or (b), the court shall indicate in the notice whether the person subject to the gun violence restraining order was present in court to be informed of the contents of the order or if the person failed to appear. The person's presence in court ~~shall constitute~~ *constitutes* proof of service of notice of the terms of the order.

(e) (1) Within one business day of service, a law enforcement officer who served a gun violence restraining order shall submit the proof of service directly into the California Restraining and Protective Order System, including his or her name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a gun violence restraining order directly into the California Restraining and Protective Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to

a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the California Restraining and Protective Order System within one business day of receipt from the court.

SEC. 407. Section 18150 of the Penal Code is amended to read:

18150. (a) (1) An immediate family member of a person or a law enforcement officer may file a petition requesting that the court issue an ex parte gun violence restraining order enjoining the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

(2) For purposes of this subdivision, "immediate family member" has the same meaning as in paragraph (3) of subdivision (b) of Section 422.4.

(b) A court may issue an ex parte gun violence restraining order if the petition, supported by an affidavit made in writing and signed by the petitioner under oath, or an oral statement taken pursuant to ~~paragraph (2) of~~ subdivision (a) of Section 18155, and any additional information provided to the court shows that there is a substantial likelihood that both of the following are true:

(1) The subject of the petition poses a significant danger, in the near future, of *causing* personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm as determined by considering the factors listed in Section 18155.

(2) An ex parte gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition.

(c) An affidavit supporting a petition for the issuance of an ex parte gun violence restraining order shall set forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist.

(d) An ex parte order under this chapter shall be issued or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be issued or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

SEC. 408. Section 18155 of the Penal Code is amended to read:

18155. (a) (1) The court, before issuing an ex parte gun violence restraining order, shall examine on oath, the petitioner and any witness the petitioner may produce.

(2) In lieu of examining the petitioner and any witness the petitioner may produce, the court may require the petitioner and any witness to submit a written affidavit signed under oath.

(b) (1) In determining whether grounds for a gun violence restraining order exist, the court shall consider all evidence of the following:

(A) A recent threat of violence or act of violence by the subject of the petition directed toward another.

(B) A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself.

(C) A violation of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code that is in effect at the time the court is considering the petition.

(D) A recent violation of an unexpired protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code.

(E) A conviction for any offense listed in Section 29805.

(F) A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another.

(2) In determining whether grounds for a gun violence restraining order exist, the court may consider any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the following:

(A) The unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition.

(B) The history of use, attempted use, or threatened use of physical force by the subject of the petition against another person.

(C) ~~Any~~ *A* prior arrest of the subject of the petition for a felony offense.

(D) ~~Any~~ *A* history of a violation by the subject of the petition of an emergency protective order issued pursuant to Section 646.91

or Part 3 (commencing with Section 6240) of Division 10 of the Family Code.

(E) ~~Any~~ *A* history of a violation by the subject of the petition of a protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code.

(F) Documentary evidence, including, but not limited to, police reports and records of convictions, of either recent criminal offenses by the subject of the petition that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol by the subject of the petition.

(G) Evidence of recent acquisition of firearms, ammunition, or other deadly weapons.

(3) For the purposes of this subdivision, "recent" means within the six months prior to the date the petition was filed.

(c) If the court determines that ~~there~~ *the* grounds to issue an ex parte gun violence restraining order exist, it shall issue an ex parte gun violence restraining order that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, and expires no later than 21 days from the date of the order.

SEC. 409. Section 18175 of the Penal Code is amended to read:

18175. (a) In determining whether to issue a gun violence restraining order under this chapter, the court shall consider evidence of the facts identified in paragraph (1) of subdivision (b) of Section 18155 and may consider any other evidence of an increased risk for violence, including, but not limited to, evidence of the facts identified in paragraph (2) of subdivision (b) of Section 18155.

(b) At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that both of the following are true:

(1) The subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, poses a significant danger of *causing* personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

(2) A gun violence restraining order is necessary to prevent personal injury to the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable, or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable.

(c) (1) If the court finds that there is clear and convincing evidence to issue a gun violence restraining order, the court shall issue a gun violence restraining order that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition.

(2) If the court finds that there is not clear and convincing evidence to support the issuance of a gun violence restraining order, the court shall dissolve any temporary emergency or ex parte gun violence restraining order then in effect.

(d) ~~The~~ *A* gun violence restraining order issued under this chapter ~~shall have~~ *has* a duration of one year, subject to termination by further order of the court at a hearing held pursuant to Section 18185 and renewal by further order of the court pursuant to Section 18190.

SEC. 410. Section 27210 of the Penal Code is amended to read:

27210. (a) The producer and facility's manager of a gun show or event shall prepare an annual event and security plan and schedule that shall include, at a minimum, the following information for each show or event:

(1) The type of show or ~~event~~ *event,* including, but not limited to, antique or general firearms.

(2) The estimated number of vendors offering firearms for sale or display.

(3) The estimated number of attendees.

(4) The number of entrances and exits at the gun show or event site.

(5) The location, dates, and times of the show or event.

(6) The contact person and telephone number for both the producer and the facility.

(7) The number of sworn peace officers employed by the producer or the facility's manager who will be present at the show or event.

(8) The number of nonsworn security personnel employed by the producer or the facility's manager who will be present at the show or event.

(b) The annual event and security plan shall be submitted by either the producer or the facility's manager to the Department of Justice and the law enforcement agency with jurisdiction over the facility.

(c) If significant changes have been made since the annual plan was submitted, the producer shall, not later than 15 days before commencement of the gun show or event, submit to the department, the law enforcement agency with jurisdiction over the facility site, and the facility's manager, a revised event and security plan, including a revised list of vendors that the producer knows, or reasonably should know, will be renting tables, space, or otherwise participating in the gun show or event.

(d) The event and security plan shall be approved by the facility's manager before the event or show, after consultation with the law enforcement agency with jurisdiction over the facility.

(e) ~~No~~ *A* gun show or event shall *not* commence unless the requirements of subdivisions (b), (c), and (d) are met.

SEC. 411. Section 30625 of the Penal Code is amended to read:

30625. Sections 30600, 30605, and 30610 ~~shall~~ *do* not apply to the sale *of an assault weapon or .50 BMG rifle* to, ~~purchase by, importation of,~~ *or the purchase, importation,* or possession of *an* assault ~~weapons~~ *weapon* or a .50 BMG rifle by, the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, district attorneys' offices, the Department of Fish and ~~Game,~~ *Wildlife,* the Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.

SEC. 412. The heading of Part 14 (commencing with Section 900) of Division 2 of the Probate Code, as added by Section 14 of Chapter 79 of the Statutes of 1990, is repealed.

~~PART 14. APPPLICABILITY OF REPEALED OR AMENDED PROVISIONS RELATING TO COMPENSATION OF ESTATE ATTORNEY AND PERSONAL REPRESENTATIVE~~

SEC. 413. The heading of Article 1 (commencing with Section 7200) of Chapter 3 of Part 1 of Division 7 of the Probate Code is repealed.

~~Article 1. Trial by Jury~~

SEC. 414. Section 10299 of the Public Contract Code, as added by Section 33 of Chapter 71 of the Statutes of 2000, is repealed.

~~10299. (a) Notwithstanding any other provision of law, the director may consolidate the needs of multiple state agencies for information technology, goods and services, and, pursuant to the procedures established in Chapter 3 (commencing with Section 12100), establish contracts, master agreements, multiple award schedules, cooperative agreements, including agreements with entities outside the state, and other types of agreements that leverage the state's buying power, for acquisitions authorized under Chapter 2 (commencing with Section 10290), Chapter 3 (commencing with Section 12100), and Chapter 3.6 (commencing with Section 12125). State agencies and local agencies may contract with suppliers awarded the contracts without further competitive bidding.~~

~~(b) The director may make the services of the department available, upon the terms and conditions agreed upon, to any school district empowered to expend public funds. These school districts may, without further competitive bidding, utilize contracts, master agreements, multiple award schedules, cooperative agreements, or other types of agreements established by the department for use by school districts for the acquisition of information technology, goods, and services. The state shall incur no financial responsibility in connection with the contracting of local agencies under this section.~~

SEC. 415. Section 20427 of the Public Contract Code is amended to read:

20427. At any time prior to publication and posting notice inviting bids, the legislative body by resolution, may determine that ~~in the event that~~ *if* the contractor, contracting owners included, does not complete the work within the time limit specified in the contract or within ~~such~~ *the* further time ~~as~~ *that* the legislative body ~~shall have~~ authorized, the contractor or contracting owners, as the case may be, shall pay to the city liquidated damages in the amount

fixed by the legislative body in ~~said~~ *the* resolution. The amount so fixed is valid as liquidated damages unless manifestly unreasonable under the circumstances existing at the time the contract was made. If ~~such~~ *this* determination is made, the plans or specifications and the contract shall contain provisions in accordance ~~therewith.~~ *with that determination.*

Any moneys received by the city on account of ~~such~~ *those* liquidated damages shall be applied as follows:

(1) If received prior to confirmation of the assessment, ~~such~~ *those* moneys shall be applied as a contribution against the assessment.

(2) If received after the confirmation of the assessment, ~~such~~ *those* moneys shall be applied in the manner provided in Section ~~5132.1~~ *5132.05* of the Streets and Highways Code for the disposition of excess acquisition funds.

(3) If a contribution has ~~theretofore~~ *previously* been made or ordered by any agency, the legislative body may order a refund to the contributing agency in the proportion ~~which said~~ *that the* contribution bears to the total costs and expenses of the work.

SEC. 416. Section 541.5 of the Public Resources Code is amended to read:

541.5. (a) The department shall not close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year. The commission and the department shall recommend all necessary steps to establish a sustainable funding strategy for the department to the Legislature on or before January 1, 2015.

(b) There is hereby appropriated twenty million five hundred thousand dollars ($20,500,000) to the department from the State Parks and Recreation Fund, which shall be available for encumbrance until June 30, 2016, and for liquidation until June 30, 2018, to be expended as follows:

(1) Ten million dollars ($10,000,000) shall be available to provide for matching funds pursuant to subdivision (c).

(2) Ten million dollars ($10,000,000) shall be available for the department to direct funds to parks that remain at risk of closure or that will keep parks open during the 2012–13 to 2015–16 fiscal years, inclusive. Priority may be given to parks subject to a donor or operating agreement or other contractual arrangement with the department.

(3) Up to five hundred thousand dollars ($500,000) shall be available for the department to pay for ongoing audits and investigations as directed by the Joint Legislative Audit Committee, the office of the Attorney General, the Department of Finance, or other state agency.

(c) The department shall match on a dollar-for-dollar basis all financial contributions contributed by a donor pursuant to an agreement for the 2012–13 fiscal year for which the department received funds as of July 31, 2013, and for agreements entered into in the 2013–14 fiscal year. These matching funds shall be used exclusively in the park unit subject to those agreements.

(d) The department shall notify the Joint Legislative Budget Committee in writing not less than 30 days before the expenditure of funds under this section of the funding that shall be expended, the manner of the expenditure, and the recipient of the expenditure.

(e) The prohibition on the closure, or proposed closure, of a state park in the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a), does not limit or affect the department's authority to enter into an operating agreement, pursuant to Section 5080.42, during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park during the 2012–13 or 2013–14 fiscal year.

SEC. 417. Section 4598.1 of the Public Resources Code is amended to read:

4598.1. (a) The purpose of this article is to encourage private investments in, and improved long-term management of, timberlands and resources within the state to promote carbon sequestration through increased timber growth and inventory, reduced carbon emissions from wildland fires by creating fire resiliency on private timberlands, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations.

(b) The primary emphasis of the program established by this article shall be upon increasing carbon sequestration in timberlands and reducing carbon emissions from wildland ~~fires; provided that, consistent~~ *fires. Consistent* with this primary emphasis, the program shall also be managed to maintain or improve all forest resources, such as fish and wildlife habitat and soil resources, so that the overall effect of the program is to improve the total forest resource system.

SEC. 418. Section 4598.6 of the Public Resources Code is amended to read:

4598.6. To be eligible for participation in an agreement or grant pursuant to Section 4598.5, the following conditions shall be met:

(a) The application requirements established by the board are satisfied.

(b) The landowner is a smaller nonindustrial landowner, as defined in Section 4598.3. Where the timberland is owned jointly by more than one individual, group, association, or corporation, as joint tenants, tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purposes of this article, as one landowner.

(c) The parcel or parcels of timberland to which the PTEIR shall apply is either:

(1) Within a timber preserve zone established pursuant to Article 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government ~~Code; provided, that the parcel of timberland is~~ *Code and* not the subject of an application for rezoning or immediate rezoning pursuant to Section 51120 *of,* or ~~51130~~ *Article 4 (commencing with Section 51130) of Chapter 6.7 of Part 1 of Division 1 of Title 5,* of the Government Code.

(2) Subject to a contract signed by the landowner ~~providing that~~ *in which* the landowner agrees not to develop the parcel of timberland for uses incompatible with the PTEIR within 20 years following the execution of an agreement or the making of a grant pursuant to Section 4598.5. The director shall record the contract in the office of the county recorder in the county in which the parcel of timberland is located and, upon recordation, the contract shall be binding upon any person to whom the parcel of timberland is sold, assigned, devised, or otherwise transferred by agreement or operation of law.

SEC. 419. Section 4598.7 of the Public Resources Code is amended to read:

4598.7. Payments or grants pursuant to this article may be made for work that is also the subject of payments or other assistance provided pursuant to federal ~~law; provided, that payments~~ *law. Payments* or grants shall not be made pursuant to this article to satisfy landowner cost share requirements of, or repay loans received pursuant to, federal ~~law; and provided, further, that the~~ *law. The* combined state and federal payments or other

assistance ~~do~~ *shall* not together exceed the amount of the actual cost of the PTEIR to the landowner.

SEC. 420. Section 5080.16 of the Public Resources Code is amended to read:

5080.16. If the director determines that it is ~~for~~ *in* the best interests of the state, the director, upon giving notice to the State Park and Recreation Commission, may negotiate or renegotiate a contract, including terms and conditions, when one or more of the following conditions exist:

(a) The bid process as prescribed in this article has failed to produce a best responsible bidder.

(b) The negotiation or renegotiation would constitute an extension of an existing contract obtained through the process required by this article and the extended contract would provide for substantial and additional concession facilities, which would be constructed at the sole expense of the concessionaire and which are set forth in the general plan for the unit and are needed to accommodate existing or projected increased public usage.

(c) Lands in the state park system administered by the department and lands under the legal control of the prospective concessionaire are so situated that the concession is dependent upon the use of those public and private lands for the physical or economic success, or both, of the concession.

(d) ~~Whenever a~~ *A* concession is desired for particular interpretive purposes in a unit of the state park system and the prospective concessionaire possesses special knowledge, experience, skills, or ability appropriate to the particular interpretive purposes.

(e) ~~Whenever the~~ *The* concession has been severely and adversely impacted through no fault of the concessionaire by an unanticipated calamity, park closure, major construction, or other harmful event or action.

(f) ~~Whenever the~~ *The* estimated administrative costs for the bid process exceed the projected annual net rental revenue to the state.

SEC. 421. Section 5096.955 of the Public Resources Code, as added by Section 14 of Chapter 178 of the Statutes of 2007, is amended and renumbered to read:

~~5096.955.~~

5096.9545 (a) For the purposes of any levee evaluation activities funded by the department, the department shall not require a local cost-share for the following levee evaluations:

(1) Evaluations of levees that are part of the facilities of the State Plan of Flood Control.

(2) Evaluations of levees located in the Central Valley that are not part of the State Plan of Flood Control, and that protect an urban area, as defined by subdivision (k) of Section 5096.805.

(3) Evaluations of levees chosen to be performed by the department as part of an effort to protect critical water conveyance infrastructure through the Sacramento-San Joaquin Delta.

(b) The department shall identify the levees described in paragraph (2) of subdivision (a) in the Bond Expenditure Disaster Preparedness and Flood Prevention Plan described in Section ~~5096.821~~ *5096.820* and notify the Governor and the Legislature of the location of these levees.

SEC. 422. Section 6217.2 of the Public Resources Code, as added by Section 5 of Chapter 326 of the Statutes of 1998, is repealed.

~~6217.2. Moneys in the Marine Life and Marine Reserve Management Account created in the Resources Trust Fund pursuant to paragraph (2) of subdivision (c) of Section 6217, shall be expended by the Department of Fish and Game for the following purposes:~~

~~(a) To develop and implement fishery management plans.~~

~~(b) To fund research on marine life and marine fisheries.~~

~~(c) To fund peer reviews of research plans and fishery management plans.~~

~~(d) To fund the evaluation, coordination, and management of marine reserves and other marine managed areas.~~

SEC. 423. The heading of Chapter 6 (commencing with Section 12292) of Division 10.5 of the Public Resources Code is repealed.

~~Chapter 6. Miscellaneous Provisions~~

SEC. 424. Section 14591.2 of the Public Resources Code is amended to read:

14591.2. (a) The department may take disciplinary action against any party responsible for directing, contributing to, participating in, or otherwise influencing the operations of a certified or registered facility or program. A responsible party includes, but is not limited to, the certificate holder, registrant, officer, director, or managing employee. Except as otherwise

provided in this division, the department shall provide a notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code before taking any disciplinary action against a certificate holder.

(b) All of the following are grounds for disciplinary action, in the form determined by the department in accordance with subdivision (c):

(1) The responsible party engaged in fraud or deceit to obtain a certificate or registration.

(2) The responsible party engaged in dishonesty, incompetence, negligence, or fraud in performing the functions and duties of a certificate holder or registrant.

(3) The responsible party violated this division or any regulation adopted pursuant to this division, including, but not limited to, any requirements concerning auditing, reporting, standards of operation, or being open for business.

(4) The responsible party is convicted of any crime of moral turpitude or fraud, any crime involving dishonesty, or any crime substantially related to the qualifications, functions, or duties of a certificate holder.

(c) The department may take disciplinary action pursuant to this section, by taking any one of, or any combination of, the following:

(1) Immediate revocation of the certificate or registration, or revocation of a certificate or registration as of a specific date in the future.

(2) Immediate suspension of the certificate or registration for a specified period of time, or suspension of the certificate or registration as of a specific date in the future. Notwithstanding subdivision (a), the department may impose a suspension of five days or less through an informal notice, if the action is subject to a stay on appeal, pending an informal hearing convened in accordance with Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Imposition on the certificate or registration of any condition that the department determines would further the goals of this division.

(4) Issuance of a probationary certificate or registration with conditions determined by the department.

(5) Collection of amounts in restitution of any money improperly paid to the certificate holder or registrant from the fund.

(6) Imposition of civil penalties pursuant to Section 14591.1.

(7) Suspension for a specified period of time or permanent revocation of eligibility of a supermarket site, rural region recycler, or a nonprofit convenience zone recycler to receive handling fees at one or more of the certificate holder's certified recycling centers.

(d) The department may do any of the following in taking disciplinary action pursuant to this section:

(1) If a certificate holder or registrant holds certificates or is registered to operate at more than one site or to operate in more than one capacity at one location, such as an entity certified as both a processor and a recycling center, the department may simultaneously revoke, suspend, or impose conditions upon some, or all, ~~of,~~ *of* the certificates held by the responsible party.

(2) If the responsible party is an officer, director, partner, manager, employee, or the owner of a controlling ownership interest of another certificate holder or registrant, that other operator's certificate or registration may also be revoked, suspended, or conditioned by the department in the same proceeding, if the other certificate holder or registrant is given notice of that proceeding, or in a subsequent proceeding.

(3) (A) If, pursuant to notice and a hearing conducted by the director or the director's designee in accordance with Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, the department determines that the continued operation of a certified or registered entity poses an immediate and significant threat to the fund, the department may order the immediate suspension of the certificate holder or registrant, pending revocation of the certificate or registration, or the issuance of a probationary certificate imposing reasonable terms and conditions. The department shall record the testimony at the hearing and, upon request, prepare a transcript. For purposes of this section, an immediate and significant threat to the fund means any of the following:

(i) A loss to the fund of at least ten thousand dollars ($10,000) during the six-month period immediately preceding the order of suspension.

(ii) Missing or fraudulent records associated with a claim or claims totaling at least ten thousand dollars ($10,000) during the six-month period immediately preceding the order of suspension.

(iii) A pattern of deceit, fraud, or intentional misconduct in carrying out the duties and responsibilities of a certificate holder during the six-month period immediately preceding the order of suspension. For purposes of this section, a pattern of deceit, fraud, or intentional misconduct in carrying out the duties of a certificate holder includes, but is not limited to, the destruction or concealment of any records six months immediately preceding the order of suspension.

(iv) At least three claims submitted for ineligible material in violation of this division, including, but not limited to, a violation of Section 14595.5, during the six-month period immediately preceding the order of suspension.

(B) An order of suspension or probation may be issued to any or all certified or registered facilities or programs operated by a person or entity that the department determines to be culpable or responsible for the loss or conduct identified pursuant to subparagraph (A).

(C) The order of suspension or issuance of a probationary certificate imposing terms or conditions shall become effective upon written notice of the order to the certificate holder or registrant. Within 20 days after notice of the order of suspension, the department shall file an accusation seeking revocation of any or all certificates or registrations held by the certificate holder or registrant. The certificate holder or registrant may, upon receiving the notice of the order of suspension or probation, appeal the order by requesting a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A request for a hearing or appeal from an order of the department does not stay the action of the department for which the notice of the order is given. The department may combine hearings to appeal an order of suspension and a hearing for the proposed revocation of a certificate or registration into one proceeding.

(D) ~~Nothing in this~~ *This* section ~~shall~~ *does not* prohibit the department from immediately revoking a probationary certificate pursuant to subdivision (b) of Section 14541 or from taking other disciplinary action pursuant to Section 14591.2.

SEC. 425. Section 21080.35 of the Public Resources Code, as added by Section 1 of Chapter 534 of the Statutes of 2001, is amended and renumbered to read:

~~21080.35.~~

21080.34 For the purposes of Section 21069, the phrase "carrying out or approving a project" shall include the carrying out or approval of a plan for a project that expands or enlarges an existing publicly owned airport by any political subdivision, as described in Section 21661.6 of the Public Utilities Code.

SEC. 426. Section 21082.3 of the Public Resources Code is amended to read:

21082.3. (a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.

(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

(1) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that

provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to ~~a~~ tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of subdivision (r) of Section 6254 of the Government Code, Section 6254.10 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant

impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.

(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.

(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

SEC. 427. Section 30103 of the Public Resources Code is amended to read:

30103. (a) “Coastal zone” means that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of ~~that chapter~~ *Chapter 1330* of the Statutes of ~~the 1975–76 Regular Session enacting this division,~~ *1976,* extending

seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.

(b) The commission shall, within 60 days after its first meeting, prepare and adopt a detailed map, on a scale of one inch equals 24,000 inches for the coastal zone and shall file a copy of the map with the county clerk of each coastal county. The purpose of this provision is to provide greater detail than is provided by the maps identified in Section 17 of ~~that chapter~~ *Chapter 1330* of the Statutes of ~~the 1975–76 Regular Session enacting this division.~~ *1976.* The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary up to a maximum of 100 yards except as otherwise provided in this subdivision, or the minimum distance seaward necessary up to a maximum of 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features. Where a landward adjustment is requested by the local government and agreed to by the property owner, the maximum distance shall be 200 yards.

SEC. 428. Chapter 1 (commencing with Section 32600) of Division 22.8 of the Public Resources Code, as added by Section 1 of Chapter 788 of the Statutes of 1999, is repealed.

~~Chapter 1. General Provisions~~

SEC. 429. Section 42356 of the Public Resources Code is amended to read:

42356. For purposes of this chapter, the following definitions apply:

(a) "ASTM" means the ~~American Society for Testing and Materials.~~ *ASTM International.*

(b) (1) "ASTM standard specification" means one of the following:

(A) The ASTM Standard Specification for Compostable Plastics D6400, as published in September 2004, except as provided in subdivision (c) of Section 42356.1.

(B) The ASTM Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment D7081, as published in August 2005, except as provided in subdivision (c) of Section 42356.1.

(C) The ASTM Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates D6868, as published in August 2003, except as specified in subdivision (c) of Section 42356.1.

(2) "ASTM standard specification" does not include an ASTM Standard Guide, a Standard Practice, or a Standard Test Method.

(c) "Department" means the Department of Resources Recycling and Recovery.

(d) "Manufacturer" means a person, firm, association, partnership, or corporation that produces a plastic product.

(e) "OK home compost" means conformity with the existing Vincotte certification "OK Compost HOME certification" which, as of January 1, 2011, uses European Norm 13432 standard adapted to low-temperature composting in accordance with the Vincotte program "OK 2-Home Compostability of Products."

(f) "Plastic product" means a product made of plastic, whether alone or in combination with other material, including, but not limited to, paperboard. A plastic product includes, but is not limited to, any of the following:

(1) (A) A consumer product.

(B) For purposes of this paragraph, "consumer product" means a product or part of a product that is used, bought, or leased for use by a person for any purpose.

(2) A package or a packaging component.

(3) A bag, sack, wrap, or other thin plastic sheet film product.

(4) A food or beverage container or a container component, including, but not limited to, a straw, lid, or utensil.

(g) "Supplier" means a person who does one or more of the following:

(1) Sells, offers for sale, or offers for promotional purposes, a plastic product that is used.

(2) Takes title to a plastic product, produced either domestically or in a foreign country, that is purchased for resale or promotional purposes.

(h) "Vincotte certification" means a certification of a European norm (EN) standard adopted by the Belgian-accredited inspection and certification organization Vincotte.

SEC. 430. Section 42649.82 of the Public Resources Code is amended to read:

42649.82. (a) (1) In addition to the requirements of Section 42649.3, on and after January 1, 2016, each jurisdiction shall implement an organic waste recycling program that is appropriate for that jurisdiction and designed specifically to divert organic waste generated by businesses subject to Section 42649.81, whether or not the jurisdiction has met the requirements of Section 41780.

(2) (A) A county board of supervisors of a rural county may adopt a resolution, as prescribed in this paragraph, to make the rural county exempt from the requirements of this section. If a rural jurisdiction is a city, the city council may adopt a resolution, as prescribed in this paragraph, to make the rural jurisdiction exempt from this section. If a rural jurisdiction is a regional agency comprised of jurisdictions that are located entirely within one or more rural counties, the board of the regional agency may adopt a resolution, as prescribed in this paragraph, to make the rural jurisdiction ~~is~~ exempt from the requirements of this section.

(B) A resolution adopted pursuant to subparagraph (A) shall include findings as to the purpose of and need for the exemption.

(C) A resolution to exempt a rural jurisdiction pursuant to subparagraph (A) shall be submitted to the department at least six months before the operative date of the exemption.

(D) On or after January 1, 2020, if the department determines that statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, all exemptions authorized by this paragraph shall terminate unless the department determines that applying this chapter to rural jurisdictions will not result in significant additional reductions of disposal of organic waste.

(b) If a jurisdiction, as of January 1, 2016, has in place an organic waste recycling program that meets the requirements of

this section, it is not required to implement a new or expanded organic waste recycling program.

(c) The organic waste recycling program required by this section shall be directed at organic waste generators and may include, but is not limited to, one or more of the following:

(1) Implementing a mandatory commercial organic waste recycling policy or ordinance that addresses organic waste recycling.

(2) Requiring a mandatory commercial organic waste recycling program through a franchise contract or agreement.

(3) Requiring organic waste to go through a source separated or mixed processing system that diverts material from disposal.

(d) (1) The organic waste recycling program shall do all of the following:

(A) Identify all of the following:

(i) Existing organic waste recycling facilities within a reasonable vicinity and the capacities available for materials to be accepted at each facility.

(ii) Existing solid waste and organic waste recycling facilities within the jurisdiction that may be suitable for potential expansion or colocation of organic waste processing or recycling facilities.

(iii) Efforts of which the jurisdiction is aware that are underway to develop new private or public regional organic waste recycling facilities that may serve some or all of the organic waste recycling needs of the commercial waste generators within the jurisdiction subject to this chapter, and the anticipated timeframe for completion of those facilities.

(iv) Closed or abandoned sites that might be available for new organic waste recycling facilities.

(v) Other nondisposal opportunities and markets.

(vi) Appropriate zoning and permit requirements for the location of new organic waste recycling facilities.

(vii) Incentives available, if any, for developing new organic waste recycling facilities within the jurisdiction.

(B) Identify barriers to siting new or expanded compostable materials handling operations, as defined in paragraph (12) of subdivision (a) of Section 17852 of ~~the~~ Title 14 of the California Code of Regulations, and specify a plan to remedy those barriers that are within the control of the local jurisdiction.

(C) Provide for the education of, outreach to, and monitoring of, businesses. The program shall require the jurisdiction to notify a business if the business is not in compliance with Section 42649.81.

(2) For purposes of subparagraph (A) of paragraph (1), an "organic waste recycling facility" shall include compostable materials handling operations, as defined in paragraph (12) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations, and may include other facilities that recycle organic waste.

(e) The organic waste recycling program may include any one or more of the following:

(1) Enforcement provisions that are consistent with the jurisdiction's authority, including a structure for fines and penalties.

(2) Certification requirements for self-haulers.

(3) Exemptions, on a case-by-case basis, from the requirements of Section 42649.81 that are deemed appropriate by the jurisdiction for any of the following reasons:

(A) Lack of sufficient space in multifamily complexes or businesses to provide additional organic material recycling bins.

(B) The current implementation by a business of actions that result in the recycling of a significant portion of its organic waste.

(C) The business or group of businesses does not generate at least one-half of a cubic yard of organic waste per week.

(D) Limited-term exemptions for extraordinary and unforeseen events.

(E) (i) The business or group of businesses does not generate at least one cubic yard of organic waste per week, if the local jurisdiction provides the department with information that explains the need for this higher exemption than that authorized by subparagraph (C).

(ii) The information described in clause (i) shall be provided to the department with the information provided pursuant to subdivision (f).

(iii) This subparagraph shall not be operative on or after January 1, 2020, if the department, pursuant to paragraph (4) of subdivision (a) of Section 42649.81, determines that statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year.

(f) (1) Each jurisdiction shall provide the department with information on the number of regulated businesses that generate organic waste and, if available, the number that are recycling organic waste. The jurisdiction shall include this information as part of the annual report required pursuant to Section 41821.

(2) On and after August 1, 2017, in addition to the information required by paragraph (1), each jurisdiction shall report to the department on the progress achieved in implementing its organic waste recycling program, including education, outreach, identification, and monitoring, on its rationale for allowing exemptions, and, if applicable, on enforcement efforts. The jurisdiction shall include this information as part of the annual report required pursuant to Section 41821.

(g) (1) The department shall review a jurisdiction's compliance with this section as part of the department's review required by Section 41825.

(2) The department also may review whether a jurisdiction is in compliance with this section at any time that the department receives information that a jurisdiction has not implemented, or is not making a good faith effort to implement, an organic waste recycling program.

(h) During a review pursuant to subdivision (g), the department shall determine whether the jurisdiction has made a good faith effort to implement its selected organic waste recycling program. For purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement its organic waste recycling program. During its review, the department may include, but is not limited to, consideration of the following factors in its evaluation of a jurisdiction's good faith effort:

(1) The extent to which businesses have complied with Section 42649.81, including information on the amount of disposal that is being diverted from the businesses, if available, and on the number of businesses that are complying with Section 42649.81.

(2) The recovery rate of the organic waste from the material recovery facilities that are utilized by the businesses, all information, methods, and calculations, and any additional performance data, as requested by the department from the material recovery facilities pursuant to Section 18809.4 of Title 14 of the California Code of Regulations.

(3) The extent to which the jurisdiction is conducting education and outreach to businesses.

(4) The extent to which the jurisdiction is monitoring businesses and notifying those businesses that are not in compliance.

(5) The appropriateness of exemptions allowed by the jurisdiction.

(6) The availability of markets for collected organic waste recyclables.

(7) Budgetary constraints.

(8) In the case of a rural jurisdiction, the effects of small geographic size, low population density, or distance to markets.

(9) The availability, or lack thereof, of sufficient organic waste processing infrastructure, organic waste recycling facilities, and other nondisposal opportunities and markets.

(10) The extent to which the jurisdiction has taken steps that are under its control to remove barriers to siting and expanding organic waste recycling facilities.

SEC. 431. Section 42987 of the Public Resources Code is amended to read:

42987. (a) (1) A qualified industry association or a successor organization may establish a mattress recycling organization for purposes of this chapter, which shall be composed of manufacturers, renovators, and retailers and be certified pursuant to this section to develop, implement, and administer the mattress recycling program established pursuant to this chapter.

(2) Within 60 days of receipt of a request for certification, the department shall notify the requesting qualified industry association of the department's decision whether or not to certify that a mattress recycling organization has been established by the qualified industry association or successor organization and is composed of manufacturers, renovators, and retailers for purposes of establishing the mattress recycling plan.

(3) Prior to certification by the department, the department's director shall appoint an advisory committee to be part of the mattress recycling organization.

(A) The advisory committee may be comprised of members of the environmental community, solid waste industry, *and* local ~~government, and~~ *government* public and private representatives involved in the collection, processing, and recycling of used mattresses, and other interested parties.

(B) The mattress recycling organization shall consult the advisory committee at least once during the development and implementation of the plan required pursuant to Section 42987.1, and annually prior to the submittal of both an annual report required pursuant to Section 42990.1 and an annual budget required pursuant to Section 42988.

(b) (1) Each manufacturer, retailer, and renovator shall register with the mattress recycling organization.

(2) A retailer may register with the mattress recycling organization as a manufacturer for a brand for which there is not a registered manufacturer.

(c) On and after January 1, 2016, a retailer shall not sell, distribute, or offer for sale a mattress in the state unless the retailer is in compliance with this chapter and the manufacturer or renovator of the mattress sold by the retailer is listed in compliance with this chapter.

(d) On and after January 1, 2016, a manufacturer or renovator shall not sell, offer for sale, or import a mattress in this state, or sell or distribute a mattress to a distributor or retailer, unless the manufacturer or renovator is in compliance with this chapter.

SEC. 432. Section 42987.1 of the Public Resources Code is amended to read:

42987.1. On or before July 1, 2015, the mattress recycling organization shall develop and submit to the department a plan for recycling used mattresses in the state in an economically efficient and practical manner that includes all of the following goals and elements:

(a) Program objectives consistent with the state's solid waste management hierarchy.

(b) The names of manufacturers, renovators, and brands covered under the plan.

(c) A consultation process with affected stakeholders, including, but not limited to, local government representatives, recyclers, and solid waste industry representatives.

(d) Methods to increase the number of used mattresses diverted from landfills, reduce the number of illegally dumped used mattresses, and increase the quantity of used materials recovered through this process and recycled for other uses.

(e) (1) The establishment and administration of a means for funding the plan in a manner that distributes the mattress recycling organization's costs uniformly over all mattresses sold in the state.

(2) The funding mechanism shall provide sufficient funding for the mattress recycling organization to carry out the plan, including the administrative, operational, and capital costs of the plan.

(f) The publishing of an annual report for each calendar year of operation.

(g) Conducting research, as needed, related to improving used mattress collection, dismantling, and recycling operations, including pilot programs to test new processes, methods, or equipment on a local, regional, or otherwise limited basis.

(h) A program performance measurement that shall collect program data for the purpose of the annual report. The information shall include:

(1) A methodology for estimating the amount of mattresses sold in the ~~state,~~ *state and* used mattresses available for collection in the state, and for quantifying the number of used mattresses collected and recycled in the state.

(2) A methodology for determining mattresses sold in the state by the manufacturers and renovators of the mattress recycling organization.

(i) A description of methods used to coordinate activities with existing used mattress collecting and recycling programs, including existing nonprofit mattress recyclers, and with other relevant parties as appropriate, with regard to the proper management or recycling of discarded or abandoned mattresses, for purposes of providing the efficient delivery of services and avoiding unnecessary duplication of effort and expense.

(j) Entering into contracts or agreements, which may include contracts and agreements with existing nonprofit or for-profit recyclers, that are necessary and proper for the mattress recycling organization to carry out these duties consistent with the terms of this chapter.

(k) ~~Establishment of~~ *Establishing* a financial incentive to encourage parties to collect for recycling used mattresses discarded or illegally dumped in the state.

(*l*) Ensuring, to the maximum extent possible, that urban and rural local governments and participating permitted solid waste facilities and authorized solid waste operations that accept

mattresses are provided with a mechanism for the recovery of illegally disposed used mattresses that is funded at no additional cost to the local government, solid waste facility, or solid waste operation.

(m) Developing processes to collect used mattresses from low-income communities for recycling in accordance with the poverty line annually established by the Secretary of California Health and Human Services pursuant to the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), as amended.

(n) Providing outreach efforts and education to consumers, manufacturers, and retailers, for the purpose of promoting the recycling of used mattresses and options available to consumers for the free dropoff of used mattresses.

(o) A provision that allows an individual to drop off, at no charge, a mattress at a recycler, renovator, mattress recycling center, permitted solid waste facility, authorized solid waste operation, or other municipal facility that accepts mattresses consistent with state solid waste regulations, and that provides for the payment to a municipal or solid waste facility or operation that accepts mattresses an amount determined by the municipal or solid waste facility or operation and the mattress recycling organization to be reasonable for accepting, collecting, storing, transporting, and handling used mattresses.

(p) Ensuring that the impact of Article XIII C of the California Constitution is addressed for local governments participating in the program.

(q) A report from the advisory committee, established pursuant to paragraph (3) of subdivision (a) of Section 42987, ~~which~~ *that* includes a summary of the consultative process between the advisory committee and the mattress recycling organization during the development of the plan, as well as any other information deemed pertinent by the advisory committee to maximizing the recovery and recycling of used mattresses in the state.

(r) Other information requested by the department that is reasonably related to compliance with the recycling plan and that the organization can reasonably compile.

SEC. 433. Section 42989.1 of the Public Resources Code is amended to read:

42989.1. (a) Commencing 90 days after the date the department approves the budget pursuant to Section 42988.1, each manufacturer, renovator, retailer, or distributor that sells a mattress to a consumer or to the ultimate end user of the mattress in the state shall add the charge to the purchase price of the mattress and shall remit the charge collected to the mattress recycling organization.

(b) In each transaction described in subdivision (a), the charge shall be clearly visible *as a separate line item* on the invoice, receipt, or functionally equivalent billing document provided by the seller to the consumer ~~as a separate line item~~.

(c) The mattress recycling organization shall develop reimbursement criteria to enable retailers to recover administrative costs associated with collecting the charge.

(d) The mattress recycling organization shall determine the rules and procedures that are necessary and proper to implement the collection of the charge in a fair, efficient, and lawful manner.

SEC. 434. Section 44107 of the Public Resources Code is amended to read:

44107. (a) A solid waste facility, as defined in Section 40194, sending materials to a biomass conversion facility, shall ensure that the materials are limited to those listed in subdivision (a) of Section 40106. The enforcement agency may inspect solid waste facilities and operations for compliance with this section.

(b) On or before April 1, 2016, and on or before April 1 of each year thereafter, the operator or owner of a biomass conversion facility shall provide an annual report to the department, in writing, for the preceding year, containing all of the following information:

(1) The name, address, and telephone number of the facility, the operator, and the owner.

(2) The total amount and type of material accepted by the facility.

(3) The name and address, or the physical location, of the source of each type of material accepted by the facility. A facility that cannot provide the name and address, or the physical location, of a source of material accepted by the facility shall provide an explanation why the information is not available.

(4) The total amount and type of material that was rejected by the facility.

(5) The name and address, or physical location, of the source of each type of material rejected by the facility and the reasons for the rejection. A facility that cannot provide the name and address, or the physical location, of a source of material rejected by the facility shall provide an explanation why the information is not available.

(6) The name and address, or physical location, of the final end user of ash or other byproducts produced by the facility. Until January 1, 2017, a facility that cannot provide the name and address, or physical location, of the final end user of ash or byproducts shall provide an explanation why that information is not available.

(7) Signatures of the operator and owner of the facility certifying the accuracy of the information provided under the penalty of perjury.

(8) Any other information that is necessary for the department to determine the accuracy of the information provided pursuant to this subdivision.

(c) To the extent that information specified in subdivision (b) has previously been submitted by the owner or operator of a biomass conversion facility *in reports* to another state agency or instrument of a state agency, the owner or operator of the facility may submit those reports to the department *in satisfaction of the requirements of subdivision (b) regarding that information*. Information required by subdivision (b) and not contained in the previously submitted reports shall be provided separately to the department.

(d) If ~~any~~ information provided by a biomass conservation facility pursuant to this section is designated as confidential, the department shall treat that information in accordance with Section 40062 and its implementing regulations.

SEC. 435. Section 75220 of the Public Resources Code is amended to read:

75220. (a) The Transit and Intercity Rail Capital Program is hereby created to fund capital improvements and operational investments that will reduce greenhouse gas emissions, modernize California's intercity, commuter, and urban rail systems to achieve all of the following policy objectives:

(1) Reduce greenhouse gas emissions.

(2) Expand and improve rail service to increase ridership.

(3) Integrate the rail service of the state's various rail operators, including integration with the high-speed rail system.

(4) Improve rail safety.

(b) The Transportation Agency shall evaluate applications for funding under the program consistent with the criteria set forth in this ~~chapter~~ *part* and prepare a list of projects recommended for funding. The list may be revised at any time.

(c) The California Transportation Commission shall award grants to applicants pursuant to the list prepared by the Transportation Agency.

SEC. 436. Section 765 of the Public Utilities Code is amended to read:

765. (a) When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning rail safety to the commission, the commission shall provide the NTSB with a formal written response to each recommendation no later than 90 days after receiving the letter. The response shall state one of the following:

(1) The commission's intent to implement the recommendations in full, with a proposed timetable for implementation of the recommendations.

(2) The commission's intent to implement part of the recommendations, with a proposed timetable for implementation of those recommendations, and detailed reasons for the commission's refusal to implement those recommendations that the commission does not intend to implement.

(3) The commission's refusal to implement the recommendations, with detailed reasons for the commission's refusal to implement the recommendations.

(b) If the NTSB issues a safety recommendation letter concerning any commission-regulated rail facility to the United States Department of Transportation, the Federal Transit Administration, ~~to~~ a commission-regulated rail operator, or ~~to~~ the commission, or if the Federal Transit Administration issues a safety advisory concerning any commission-regulated rail facility, the commission shall determine if implementation of the recommendation or advisory is appropriate. The basis for the commission's determination shall be detailed in writing and shall be approved by a majority vote of the commission.

(c) If the commission determines that a safety recommendation made by the NTSB is appropriate, or that action concerning a safety advisory is necessary, the commission shall issue orders or adopt rules to implement the safety ~~recommendations~~ *recommendation* or advisory as soon as practicable. In implementing the safety recommendation or advisory, the commission shall consider whether a more effective, or equally effective and less costly, alternative exists to address the safety issue that the recommendation or advisory addresses.

(d) ~~Any~~ *An* action taken by the commission on a safety recommendation letter or safety advisory shall be reported annually, in detail, to the Legislature with the report required by Section 321.6. ~~Any correspondence~~ *Correspondence* from the NTSB indicating that a recommendation has been closed following an action that the NTSB finds unacceptable shall be noted in the report required by Section 321.6.

SEC. 437. Section 957 of the Public Utilities Code, as added by Section 2 of Chapter 519 of the Statutes of 2011, is repealed.

~~957. (a) (1) Unless the commission determines that it is prohibited from doing so by Section 60104(c) of Title 49 of the United States Code, the commission shall require the installation of automatic shutoff or remote controlled sectionalized block valves on both of the following facilities, if it determines those valves are necessary for the protection of the public:~~

~~(A) Intrastate transmission lines that are located in a high consequence area.~~

~~(B) Intrastate transmission lines that traverse an active seismic earthquake fault.~~

~~(2) Each owner or operator of a commission-regulated gas pipeline facility that is an intrastate transmission line shall provide the commission with a valve location plan, along with any recommendations for valve locations. The commission may make modifications to the valve location plan or provide for variations from any location requirements adopted by the commission pursuant to this section that it deems necessary or appropriate and consistent with protection of the public.~~

~~(3) The commission shall additionally establish action timelines, adopt standards for how to prioritize installation of automatic shutoff or remote controlled sectionalized block valves pursuant to paragraph (1), ensure that remote and automatic shutoff valves~~

~~are installed as quickly as is reasonably possible, and establish ongoing procedures for monitoring progress in achieving the requirements of this section.~~

~~(b) The commission shall authorize recovery in rates for all reasonably incurred costs incurred for implementation of the requirements of this section.~~

~~(c) The commission, in consultation with the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation, shall adopt and enforce compatible safety standards for commission-regulated gas pipeline facilities that the commission determines should be adopted to implement the requirements of this section.~~

SEC. 438. Section 960 of the Public Utilities Code is amended to read:

960. (a) When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning gas pipeline safety to the commission, the commission shall provide the NTSB with a formal written response to each recommendation not later than 90 days after receiving the letter. The response shall state one of the following:

(1) The commission's intent to implement the recommendations in full, with a proposed timetable for implementation of the recommendations.

(2) The commission's intent to implement part of the recommendations, with a proposed timetable for implementation of those recommendations, and detailed reasons for the commission's refusal to implement those recommendations that the commission does not intend to implement.

(3) The commission's refusal to implement the recommendations, with detailed reasons for the commission's refusal to implement the recommendations.

(b) If the NTSB issues a safety recommendation letter concerning any commission-regulated gas pipeline facility to the United States Department of Transportation, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA), a gas corporation, or ~~to~~ the commission, or the PHMSA issues an advisory bulletin concerning any commission-regulated gas pipeline facility, the commission shall determine if implementation of the recommendation or advisory is appropriate. The basis for

the commission's determination shall be detailed in writing and shall be approved by a majority vote of the commission.

(c) If the commission determines that a safety recommendation made by the NTSB is appropriate or that action concerning an advisory bulletin is necessary, the commission shall issue orders or adopt rules to implement the safety ~~recommendations~~ *recommendation* or advisory as soon as practicable. In implementing the safety recommendation or advisory, the commission shall consider whether a more effective, or equally effective and less costly, alternative exists to address the safety issue that the recommendation or advisory addresses.

(d) ~~Any~~ *An* action taken by the commission on a safety recommendation letter or advisory bulletin shall be reported annually, in detail, to the Legislature with the report required by Section 321.6. ~~Any correspondence~~ *Correspondence* from the NTSB that indicates that a recommendation of the NTSB has been closed following an action that the NTSB finds unacceptable shall be noted in the report required by Section 321.6.

SEC. 439. Section 5384.2 of the Public Utilities Code, as added by Section 2 of Chapter 649 of the Statutes of 2008, is amended and renumbered to read:

~~5384.2.~~

5395. A school, school district, or the state is not liable for transportation services provided by an operator of a charter-party carrier operating a motor vehicle as specified in subdivision (k) of Section 545 of the Vehicle Code for which the school or school district has not contracted, arranged, or otherwise provided.

SEC. 440. Section 120260 of the Public Utilities Code is amended to read:

120260. The board shall provide input to the San Diego Association of Governments on the planning and construction of exclusive public mass transit guideways in the area under its jurisdiction in conformance with the California Transportation Plan and the regional transportation plan developed pursuant to Chapter 2.5 (commencing with Section ~~65080.1)~~ *65080)* of Division 1 of Title 7 of the Government Code.

SEC. 441. The heading of Article 5 (commencing with Section 125300) of Chapter 4 of Division 11.5 of the Public Utilities Code is repealed.

~~Article 5. Transportation Planning~~

SEC. 442. Section 125450 of the Public Utilities Code, as added by Section 7 of Chapter 990 of the Statutes of 1993, is repealed.

~~125450. A violation of any ordinance, rule, or regulation enacted by the board relating to the nonpayment of a fare in any transit facility owned or controlled by the board shall be an infraction punishable by a fine not exceeding seventy-five dollars ($75), except that a violation by a person, after the second conviction under this section, shall be a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail not exceeding six months, or by both that fine and imprisonment.~~

SEC. 443. Section 125500 of the Public Utilities Code, as added by Chapter 1188 of the Statutes of 1975, is repealed.

~~125500. This chapter shall become operative on the date the board first begins to operate a public transit system pursuant to Section 125105.~~

SEC. 444. Section 54 of the Revenue and Taxation Code is repealed.

~~54. (a) Notwithstanding any other provision of law, no modification of assessment procedures shall be made with respect to real property on the basis of the invalidity of any portion of Section 2 of Article XIII A of the California Constitution as determined by the United States Supreme Court in the case of Nordlinger v. Hahn.~~

~~(b) This section shall only be operative if the United States Supreme Court, in its decision in the case of Nordlinger v. Hahn, determines that any portion of Section 2 of Article XIII A of the California Constitution is invalid, and shall, in that event, absent a shorter period specified by the Legislature by statute, be operative for only two years from the date of that decision.~~

SEC. 445. Section 196.91 of the Revenue and Taxation Code, as added by Section 1 of Chapter 3 of the First Extraordinary Session of the Statutes of 1995, is repealed.

~~196.91. In the 1994–95 fiscal year, or as soon as possible thereafter, the county auditor of an eligible county, proclaimed by the Governor to be in a state of disaster as a result of storm,~~

~~flooding, or any other related casualty that occurred in the county in 1995, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for that fiscal year resulting from the reassessment of eligible properties by the county assessor pursuant to Section 170, except that the amount certified shall not include any estimated property tax revenue reductions to school districts (other than basic state aid school districts) and county offices of education. For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.~~

SEC. 446. Section 196.91 of the Revenue and Taxation Code, as added by Section 1 of Chapter 4 of the First Extraordinary Session of the Statutes of 1995, is repealed.

~~196.91. In the 1994–95 fiscal year, or as soon as possible thereafter, the county auditor of an eligible county, proclaimed by the Governor to be in a state of disaster as a result of storm, flooding, or any other related casualty that occurred in the county in 1995, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for that fiscal year resulting from the reassessment of eligible properties by the county assessor pursuant to Section 170, except that the amount certified shall not include any estimated property tax revenue reductions to school districts (other than basic state aid school districts) and county offices of education. For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.~~

SEC. 447. Section 196.92 of the Revenue and Taxation Code, as added by Section 2 of Chapter 3 of the First Extraordinary Session of the Statutes of 1995, is repealed.

~~196.92. After the county auditor of an eligible county, as described in Section 196.91, has made the applicable certification to the Director of Finance pursuant to Section 196.91, the director~~

~~shall, within 30 days after verification of the county auditor's estimate, certify this amount to the Controller for allocation to the county. Upon receipt of certification from the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days thereafter.~~

SEC. 448. Section 196.92 of the Revenue and Taxation Code, as added by Section 2 of Chapter 4 of the First Extraordinary Session of the Statutes of 1995, is repealed.

~~196.92. After the county auditor of an eligible county, as described in Section 196.91, has made the applicable certification to the Director of Finance pursuant to Section 196.91, the director shall, within 30 days after verification of the county auditor's estimate, certify this amount to the Controller for allocation to the county. Upon receipt of certification from the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days thereafter.~~

SEC. 449. Section 441 of the Revenue and Taxation Code is amended to read:

441. (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars ($100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage

prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision ~~shall be applicable~~ *applies* to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(2) (A) This subdivision ~~shall~~ also ~~apply~~ *applies* to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided either by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or for any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other

financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement he or she determines to be in error.

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision ~~shall apply~~ *applies* to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

(*l*) (1) After receiving the notice required by Section 1162, the manager in control of a fleet of fractionally owned aircraft shall file with the lead county assessor's office one signed property statement for all of its aircraft that have acquired situs in the state, as described in Section 1161.

(2) Flight data required to compute fractionally owned aircraft allocation under Section 1161 shall be segregated by airport.

(m) (1) After receiving the notice required by paragraph (5) of subdivision (b) of Section 1153.5, a commercial air carrier whose certificated aircraft is subject to Article 6 (commencing with Section 1150) of Chapter 5 shall file with the lead county assessor's office designated under Section 1153.5 one signed property statement for its personal property at all airport locations and fixtures at all airport locations.

(2) Each commercial air carrier may file one schedule for all of its certificated aircraft that have acquired situs in this state under Section 1151.

(3) Flight data required to compute certificated aircraft allocation under Section 1152 and subdivision (g) of Section 202 of Title 18 of the California Code of Regulations shall be segregated by airport location.

(4) Beginning with the 2006 assessment year, a commercial air carrier may file a statement described in this subdivision electronically by means of the California Assessor's Standard Data Record (SDR) network. If the SDR is not equipped to accept electronic filings for the 2006 assessment year, an air carrier may file a printed version of its property statement for that year with its lead county assessor's office.

(5) This subdivision shall ~~remain in effect only until~~ *become inoperative on* December 31, 2015~~, and as of that date is repealed~~.

SEC. 450. Section 6051.7 of the Revenue and Taxation Code is repealed.

~~6051.7. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state, on and after April 1, 2009.~~

~~(b) This section shall cease to be operative on July 1, 2011, unless the Director of Finance makes the notification pursuant to~~

~~Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2012.~~

SEC. 451. The heading of Article 1.5 (commencing with Section 7063) of Chapter 8 of Part 1 of Division 2 of the Revenue and Taxation Code, as added by Section 1 of Chapter 443 of the Statutes of 1999, is repealed.

~~Article 1.5. Public Disclosure of Tax Delinquencies~~

SEC. 452. Chapter 3.5 (commencing with Section 7288.1) of Part 1.7 of Division 2 of the Revenue and Taxation Code, as added by Section 2 of Chapter 14 of the 1st Extraordinary Session of the Statutes of 1991, is repealed.

SEC. 453. The heading of Part 5.5 (commencing with Section 11151) of Division 2 of the Revenue and Taxation Code, as added by Section 1 of Chapter 966 of the Statutes of 1993, is amended and renumbered to read:

PART ~~5.5.~~*5.6.* LOCAL VEHICLE LICENSE FEE SURCHARGE

SEC. 454. Section 17053.34 of the Revenue and Taxation Code is amended to read:

17053.34. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training

Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) CalFresh benefits.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was

a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) 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 or Section 23634 shall be allowed to the passthrough entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "passthrough entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision ~~(d)~~ *(e)* of Section 23634, ~~shall~~ apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that

employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to

create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) ~~Any~~ *An* increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) ~~Any~~ *A* beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(h) For purposes of this section, "targeted tax area" means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case ~~where~~ *in which* the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding 10 taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(5) In the event that a credit carryover is allowable under subdivision (i) for any taxable year after the targeted tax area expiration date, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 455. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(4) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) An ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) CalFresh benefits.

(IV) State and local general assistance.

(viii) Is a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(5) "Qualified taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time

employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, becomes inoperative, or is repealed.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the LAMBRA, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to Section 7114.2 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in *paragraph (1) of* subdivision ~~(e)~~ *(d)* of Section ~~23622.~~ *23622.7.*

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the taxpayer

at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of ~~any~~ *a* qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a), is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that individual is replaced by other qualified displaced employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) ~~Any~~ *An* increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's net tax for the taxpayer's second taxable year.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) ~~Any~~ *A* beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(g) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding 10 taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 17053.45, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the net income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section

25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative on January 1, 2014, and shall be repealed on December 1, 2019. A credit shall not be allowed under this section with respect to an employee who first commences employment with a qualified taxpayer on or after January 1, 2014.

(2) This section shall continue to apply with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within

the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified disadvantaged individuals or qualified displaced employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 456. Section 17053.73 of the Revenue and Taxation Code is amended to read:

17053.73. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the "net tax," as defined in Section 17039, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for that taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or economic development area, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or economic development area with comparable compensation.

(B) For purposes of this paragraph, "relocates to a designated census tract or economic development area" means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or economic development areas within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or economic development areas.

(C) This paragraph ~~shall~~ *does* not apply to a small business.

(4) The credit allowed by this section may be claimed only on a timely filed original return of the qualified taxpayer and only

with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The "tentative credit amount" for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The "applicable percentage" for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The "applicable credit percentage" means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) "Base year" means the 2013 taxable year, except in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 1, 2015, the base year means the taxable year immediately preceding the taxable year in which a qualified full-time employee was first hired by the qualified taxpayer.

(5) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the qualified taxpayer by the employee, not to exceed 2,000 hours per employee, divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(7) "Designated census tract" means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) "Economic development area" means either of the following:

(A) A former enterprise zone. For purposes of this section, "former enterprise zone" means an enterprise zone designated and in effect as of December 31, 2011, any enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

(9) "Minimum wage" means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(10) (A) "Qualified full-time employee" means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or economic development area.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vi) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual that completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

(B) An individual may be considered a qualified full-time employee only for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) "Qualified taxpayer" means a person or entity engaged in a trade or business within a designated census tract or economic development area that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru 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 or Section 23626 shall be allowed to the pass-thru entity and passed

through to the partners and shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) "Qualified taxpayers" shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

~~(aa)~~

(ia) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

~~(ab)~~

(ib) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(D) Subparagraph (C) shall not apply to a taxpayer that is a "small business."

(12) "Qualified wages" means those wages that meet all of the following requirements:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of minimum wage.

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars ($10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of minimum wage. For qualified full-time employees described in the preceding sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting "ten dollars ($10) per hour or an equivalent amount for salaried employees" for "150 percent of the minimum wage."

(II) For purposes of this clause:

~~(aa)~~

(ia) "Designated pilot area" means an area designated as a designated pilot area by the Governor's Office of Business and Economic Development.

~~(ab)~~

(ib) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

~~(ac)~~

(ic) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an economic development area based on high poverty or high unemployment.

~~(ad)~~

(id) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may

be extended, in the sole discretion of the Governor's Office of Business and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor's Office of Business and Economic Development and shall not be subject to administrative appeal or judicial review.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (n), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer a designated census tract.

(13) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(14) (A) "Small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars ($2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "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.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation and to each partner or shareholder.

(C) (i) "Small business" shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(15) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the base year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the base year shall be zero.

(d) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section ~~17276.20,~~ *17276*, without application of paragraph (7) of that subdivision, shall apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirements as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hired in a previous taxable year, on or before, the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 23626.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date the Department of Finance redesignates the designated census tracts.

(h) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) All employees of trades or businesses that are not incorporated, and that are under common control, shall be treated as employed by a single taxpayer.

(3) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated to that trade or business in that manner.

(4) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (h) of Section 23626, shall apply with respect to determining employment.

(5) If an employer acquires the major portion of a trade or business of another employer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (i), for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) ~~shall~~ *does* not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(4) ~~Any~~ *An* increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for ~~any~~ *a* taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) ~~Any~~ *A* beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(k) In the case ~~where~~ *in which* the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the succeeding four years if necessary, until the credit is exhausted.

(*l*) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. 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 rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(m) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that

will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020– 21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(n) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

SEC. 457. Section 17053.74 of the Revenue and Taxation Code is amended to read:

17053.74. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) to a taxpayer who employs a

qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has

exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran,

veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) CalFresh benefits.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in *paragraph (1) of* subdivision (d) of Section 23622.7, ~~shall~~ apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year

ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a), is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as

defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) ~~Any~~ *An* increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) ~~Any~~ *A* beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17, and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding 10 taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in

accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision ~~shall~~ apply to taxable years beginning on or after January 1, 1997.

(*l*) (1) Except as provided in paragraph (2), this section shall cease to be operative on January 1, 2014, and shall be repealed on December 1, 2019. A credit shall not be allowed under this section with respect to an employee who first commences employment with a taxpayer on or after January 1, 2014.

(2) This section shall continue to apply with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 458. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2016, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph ~~shall~~ *does* not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(iv) This subparagraph shall cease to be operative with respect to any project that receives a preliminary reservation of a credit on or after January 1, 2016.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code ~~shall~~ apply to this section.

(E) (i) Except as described in clause (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of its occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

~~(G)~~

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and

3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in ~~Section 42(b)(1)(A)~~ *Section 42(b)(1)(B)* of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715*l*(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) ~~shall~~ *do* not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any

time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return ~~shall apply~~ *applies* in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code ~~shall~~ *does* not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code ~~shall~~ *does* not ~~be applicable~~ *apply* and instead the following provisions ~~shall be applicable:~~ *apply:*

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code ~~shall~~ *do* not ~~be applicable~~ *apply* to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars ($500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code ~~shall~~ *does* not ~~be applicable~~ *apply* and the following requirements of this section

shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position

to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units is comprised of low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case ~~where~~ *in which* the credit allowed under this section exceeds the net tax, the excess credit may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision ~~shall be~~ *is* subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, ~~shall~~ apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, ~~shall~~ *do* not apply.

~~(q) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.~~

~~This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.~~

~~(r)~~

(q) The amendments to this section made by the act adding this subdivision ~~shall~~ apply only to taxable years beginning on or after January 1, 1994.

(r) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect. Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

SEC. 459. Section 17132.6 of the Revenue and Taxation Code is repealed.

~~17132.6. A payment under paragraph (10) of subsection (c) of Section 103 of the Ricky Ray Hemophilia Relief Fund Act of 1998 (42 U.S.C. Sec. 300c-22) to an individual shall be treated for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) as damages described in Section 104(a)(2) of the Internal Revenue Code.~~

SEC. 460. Section 17141 of the Revenue and Taxation Code, as added by Section 1 of Chapter 439 of the Statutes of 2013, is amended and renumbered to read:

~~17141.~~

17141.3 (a) Gross income shall not include any amount received by an employee from an employer to compensate for the additional federal income tax liability incurred by the employee because, for federal income tax purposes, the same-sex spouse or domestic partner of the employee is not considered the spouse of the employee under Section 105(a) or Section 106(a) of the Internal Revenue Code, including any compensation for the additional federal income tax liability incurred with respect to those amounts.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 461. Section 17155 of the Revenue and Taxation Code, as added by Section 2 of Chapter 28 of the Statutes of 1996, is repealed.

~~17155. (a) Gross income shall not include any amount, including any interest or property, that is received as compensation in any taxable year by a taxpayer pursuant to the German Act Regulating Unresolved Property Claims, as amended (Gesetz zur Regelung offener Vermogensfragen).~~

~~(b) The basis of any property received pursuant to the German Act Regulating Unresolved Property Claims shall be the fair market value of the property at the time of receipt by the taxpayer.~~

SEC. 462. Section 17207.7 of the Revenue and Taxation Code is amended to read:

17207.7. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses sustained in the County of Mendocino as a result of the tsunami that occurred in March 2011.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section ~~17276.20,~~ *17276*, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) This section and Section 165(i) of the Internal Revenue Code ~~shall be applicable~~ *apply* to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section ~~may~~ *shall* not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 463. Section 17207.8 of the Revenue and Taxation Code is amended to read:

17207.8. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses sustained in the County of San Mateo as a result of the explosion and fire that occurred in September 2010.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section ~~17276.20,~~ *17276*, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) This section and Section 165(i) of the Internal Revenue Code ~~shall be applicable~~ *apply* to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section ~~may~~ *shall* not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 464. Section 17276.20 of the Revenue and Taxation Code is amended and renumbered to read:

~~17276.20.~~

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the

following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall

be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, the amount of carryback to

any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Section 172(b)(1)(E) of the Internal Revenue Code, relating to excess interest loss, and Section 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest losses, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 taxable years" except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any taxable year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at

any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules ~~shall~~ apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules ~~shall~~ apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) ~~Any acquired~~ *Acquired* assets that constituted property described in Section ~~1221(1)~~ *1221(a)(1)* of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets

also constitute property described in Section ~~1221(1)~~ *1221(a)(1)* of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In ~~any~~ *a* case ~~where~~ *in which* a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In ~~any~~ *a* case ~~where~~ *in which* a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In ~~any~~ *a* case ~~where~~ *in which* the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1).

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as

further amended, and that has not received regulatory approval for any product from the Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 ~~shall~~ apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 465. Section 17276.21 of the Revenue and Taxation Code is amended to read:

17276.21. (a) Notwithstanding Sections 17276, 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, ~~17276.7, and 17276.20~~ *and 17276.7* of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2012.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(3) By three years, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(4) By four years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2013.

(d) The provisions of this section ~~shall~~ *do* not apply to the following taxpayers:

(1) For ~~any~~ *a* taxable year beginning on or after January 1, 2008, and before January 1, 2010, this section ~~shall~~ *does* not apply to a taxpayer with net business income of less than five hundred thousand dollars ($500,000) for the taxable year. For purposes of this paragraph, business income means:

(A) Income from a trade or business, whether conducted by the taxpayer or by a passthrough entity owned directly or indirectly by the taxpayer. For purposes of this paragraph, the term "passthrough entity" means a partnership or an "S" corporation.

(B) Income from rental activity.

(C) Income attributable to a farming business.

(2) For ~~any~~ *a* taxable year beginning on or after January 1, 2010, and before January 1, 2012, this section ~~shall~~ *does* not apply to a taxpayer with modified adjusted gross income of less than three hundred thousand dollars ($300,000) for the taxable year. For purposes of this paragraph, "modified adjusted gross income" means the amount described in paragraph (2) of subdivision (h)

of Section 17024.5, determined without regard to the deduction allowed under Section 172 of the Internal Revenue Code, relating to net operating loss deduction.

SEC. 466. Section 17507.6 of the Revenue and Taxation Code is repealed.

~~17507.6. Section 408A of the Internal Revenue Code, relating to Roth IRAs, is modified to additionally provide all of the following:~~

~~(a) Section 408A(c)(3) of the Internal Revenue Code is modified as follows:~~

~~(1) By substituting the phrase "shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced" in lieu of the phrase "shall be reduced" in Section 408A(c)(3)(A) of the Internal Revenue Code.~~

~~(2) By substituting the phrase "in the case of a joint return or a married individual filing a separate return" in lieu of the phrase "in the case of a joint return" in Section 408A(c)(3)(A)(ii) of the Internal Revenue Code.~~

~~(3) By substituting the phrase "taxable year if, for the taxable year of the distribution to which such contribution relates" in lieu of the phrase "taxable year if" in Section 408A(c)(3)(B) of the Internal Revenue Code.~~

~~(4) By substituting the phrase "adjusted gross income exceeds" in lieu of the phrase "adjusted gross income for such taxable year exceeds" in Section 408A(c)(3)(B)(i) of the Internal Revenue Code.~~

~~(5) By substituting the phrase "any amount included in gross income under subsection (d)(3) shall not be taken into account" in lieu of the phrase "any amount included in gross income under subsection (d)(3) shall not be taken into account and the deduction under Section 219 shall be taken into account" in Section 408A(c)(3)(C)(i) of the Internal Revenue Code.~~

~~(b) (1) Section 408A(d)(1) of the Internal Revenue Code shall not apply and in lieu thereof any qualified distribution from a Roth IRA shall not be includable in gross income.~~

~~(2) Section 408A(d)(2)(B) of the Internal Revenue Code shall not apply and in lieu thereof:~~

~~(A) A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under Section 408A(d)(2)(A) of the Internal Revenue Code if the payment or distribution is made~~

~~within the five-taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA (or the individual's spouse made a contribution to a Roth IRA) established for that individual.~~

~~(B) The term "qualified distribution" shall not include any distribution of any contribution described in subdivision (g) and any net income allocable to the contribution.~~

~~(c) (1) If a taxpayer has made an election for federal purposes under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code, as amended by Public Law 105-206, to not have Section 408A(d)(3)(A)(iii) of the Internal Revenue Code, as amended by Public Law 105-206, apply to any distributions during the 1998 taxable year, that election shall be treated as an election to include in gross income for purposes of this part all amounts required to be included in gross income for the taxable year by reason of Section 408A(d)(3) of the Internal Revenue Code. A separate election for state purposes may not be made under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.~~

~~(2) If a taxpayer fails to make an election for federal purposes under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code, as amended by Public Law 105-206, to not have Section 408A(d)(3)(A)(iii) of the Internal Revenue Code, as amended by Public Law 105-206, apply to any distributions during a taxable year, Section 408A(d)(3)(A)(iii) of the Internal Revenue Code shall apply to those distributions for state purposes, no election under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code, as amended by Public Law 105-206, shall be allowed for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.~~

~~(d) In the case of a qualified rollover contribution to a Roth IRA of a distribution to which Section 408A(d)(3)(A)(iii) of the Internal Revenue Code, as amended by Public Law 105-206, applied, the following rules shall apply:~~

~~(1) (A) The amount required to be included in gross income for each of the first three taxable years in the four-year period under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code shall be increased by the aggregate distributions from Roth IRAs for the taxable year which are allocable under Section 408A(d)(4) of the Internal Revenue Code to the portion of the qualified rollover~~

~~contribution required to be included in gross income under Section 408A(d)(3)(A)(i) of the Internal Revenue Code.~~

~~(B) The amount required to be included in gross income for any taxable year under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code shall not exceed the aggregate amount required to be included in gross income under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code for all taxable years in the four-year period (without regard to subparagraph (A)) reduced by amounts included for all preceding taxable years.~~

~~(2) (A) If the individual required to include amounts in gross income under Section 408A(d)(3)(A)(iii) of the Internal Revenue Code dies before all the amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.~~

~~(B) (i) If the spouse of the individual described in subparagraph (A) acquires the individual's entire interest in any Roth IRA to which the qualified rollover contribution is properly allocable and makes an election for federal purposes under Section 408A(d)(3)(E) of the Internal Revenue Code, as amended by Public Law 105-206, to treat the remaining amounts described in subparagraph (A) as includable in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of the individual in which the amounts would otherwise have been includable, subparagraph (A) shall not apply for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, the federal election shall be binding for purposes of this part and that election shall be treated as an election to treat the remaining amounts described in subparagraph (A) as includable in the spouse's gross income for state purposes in the taxable years of the spouse ending with or within the taxable years of the individual in which the amounts would otherwise have been includable.~~

~~(ii) If the spouse of the individual described in subparagraph (A) acquires the individual's entire interest in any Roth IRA to which the qualified rollover contribution is properly allocable and fails to make an election for federal purposes under Section 408A(d)(3)(E) of the Internal Revenue Code, as amended by Public Law 105-206, or revokes an election previously made for federal purposes under Section 408A(d)(3)(E) of the Internal Revenue Code, as amended by Public Law 105-206, to treat the remaining~~

~~amounts described in subparagraph (A) as includable in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of the individual in which the amounts would otherwise have been includable, no election under this paragraph shall be allowed for state purposes, subparagraph (A) shall apply for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.~~

~~(e) (1) If any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in Section 408A(d)(3) of the Internal Revenue Code, and the distribution is made within the five-taxable year period beginning with the taxable year in which the contributions were made, then Section 72(t) of the Internal Revenue Code shall be applied as if that portion were includable in gross income.~~

~~(2) Paragraph (1) shall apply only to the extent of the amount of the qualified rollover contribution includable in gross income under Section 408A(d)(3)(A)(i) of the Internal Revenue Code.~~

~~(f) Section 408A(d)(3)(D) of the Internal Revenue Code shall not apply.~~

~~(g) Section 408A(d)(4) of the Internal Revenue Code shall not apply and in lieu thereof:~~

~~(1) (A) Section 408(d)(2) of the Internal Revenue Code shall be applied separately with respect to Roth IRAs and other individual retirement plans.~~

~~(B) For purposes of applying Section 408A of the Internal Revenue Code, as amended by Public Law 105-206, this section and Section 72 of the Internal Revenue Code to any distribution from a Roth IRA, the distribution shall be treated as made—~~

~~(i) From contributions to the extent that the amount of the distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and~~

~~(ii) From the contributions in the following order:~~

~~(I) Contributions other than qualified rollover contributions to which Section 408A(d)(3) of the Internal Revenue Code, as amended by Public Law 105-206, applies.~~

~~(II) Qualified rollover contributions to which Section 408A(d)(3) of the Internal Revenue Code, as amended by Public Law 105-206, applies on a first-in, first-out basis. Any distribution allocated to~~

~~a qualified rollover contribution under this clause shall be allocated first to the portion of the contribution required to be included in gross income.~~

~~(h) (1) Except as provided by the Secretary of the Treasury (unless the Franchise Tax Board provides otherwise), if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during the taxable year from that plan to any other individual retirement plan, then, for purposes of this part, the contribution shall be treated as having been made to the transferee plan (and not the transferor plan).~~

~~(2) (A) Paragraph (1) shall not apply to the transfer of any contribution unless the transfer is accompanied by any net income allocable to that contribution.~~

~~(B) Paragraph (1) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.~~

~~(i) For purposes of Section 408A(d) of the Internal Revenue Code, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for that taxable year.~~

~~(j) For purposes of Section 408A of the Internal Revenue Code—~~

~~(1) A simplified employee pension or a simple retirement account may not be designated as a Roth IRA, and~~

~~(2) Contributions to that pension or account shall not be taken into account for purposes of Section 408A(c)(2)(B) of the Internal Revenue Code.~~

SEC. 467. Section 17565 of the Revenue and Taxation Code, as added by Chapter 362 of the Statutes of 1989, is repealed.

~~17565. (a) The taxable year of a taxpayer may not be different than the taxable year used for purposes of the Internal Revenue Code, unless initiated or approved by the Franchise Tax Board.~~

~~(b) For purposes of this section, whenever a taxpayer is required to make a federal return for a period of less than 12 months, that period shall be deemed to be a taxable year, and the provisions of Section 17552 shall apply.~~

SEC. 468. The heading of Chapter 10.5 (commencing with Section 17940) of Part 10 of Division 2 of the Revenue and

Taxation Code, as added by Section 1 of Chapter 339 of the Statutes of 1987, is repealed.

~~Chapter 10.5. Real Estate Mortgage Investment Conduits~~

SEC. 469. Section 18407 of the Revenue and Taxation Code, as amended by Section 326 of Chapter 183 of the Statutes of 2004, is repealed.

~~18407. Section 6011 of the Internal Revenue Code, relating to general requirement of return, statement, or list, shall apply, except as otherwise provided.~~

~~(a) Section 6011(a) of the Internal Revenue Code, relating to general rule, is modified as follows:~~

~~(1) The phrase "any person liable for any tax imposed by Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part," shall be substituted for the phrase "when required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title," contained therein.~~

~~(2) "Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board" shall be substituted for "Secretary."~~

~~(3) To additionally provide that "reportable transaction" includes any transaction of a type that the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or the Franchise Tax Board under this section for California income or franchise tax purposes determines as having a potential for tax avoidance or evasion including deductions, basis, credits, entity classification, dividend elimination, or omission of income, and shall be reported on the return or the statement required to be made.~~

~~(4) To additionally provide that "listed transaction" includes any transaction that is the same as, or substantially similar to, a transaction specifically identified by the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board under this section for California income or franchise tax purposes, as a tax avoidance transaction including deductions, basis, credits, entity~~

~~classification, dividend elimination, or omission of income and shall be reported on the return or statement required to be made.~~

~~(A) The Franchise Tax Board shall identify and publish "listed transactions" (whether identified by the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board) through the use of Franchise Tax Board Notices or other published positions. In addition, the "listed transactions" identified and published pursuant to the preceding sentence shall be published on the Web site of the Franchise Tax Board.~~

~~(B) The Franchise Tax Board shall conduct a public outreach program to make taxpayers aware of the new and increased penalties associated with the use of tax avoidance transactions including deductions, basis, credits, entity classification, dividend elimination, or omission of income.~~

~~(5) 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 paragraph (4).~~

~~(b) Section 6011(b) of the Internal Revenue Code, relating to identification of taxpayer, does not apply and, in lieu thereof, Section 18408 shall apply.~~

~~(c) Section 6011(c) of the Internal Revenue Code, relating to returns, etc., of DISCs and former DISCs and FSCs and former FSCs, does not apply.~~

~~(d) Section 6011(d) of the Internal Revenue Code, relating to authority to require information concerning Section 912 allowances, does not apply.~~

~~(e) Section 6011(e) of the Internal Revenue Code, relating to regulations requiring returns on magnetic media, etc., shall take into account Section 18408 and shall also include the modifications made to Section 6011(e) of the Internal Revenue Code by Section 18408.~~

~~(f) Section 6011(f)(2) of the Internal Revenue Code, relating to incentives, does not apply.~~

SEC. 470. Section 18805 of the Revenue and Taxation Code is amended to read:

18805. (a) ~~Any~~ *A* taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to

the California Peace Officer Memorial Foundation Fund, which is established by Section 18806. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and the administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Peace Officer Memorial Foundation Fund" to allow for the designation permitted. The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to build and maintain the California Peace ~~Officer~~ *Officers'* Memorial in Sacramento, California, and for activities performed by the California Peace ~~Officer~~ *Officers'* Memorial Foundation in support of families of slain peace officers.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 471. Section 18807 of the Revenue and Taxation Code is amended to read:

18807. All money transferred to the California Peace Officer Memorial Foundation Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the ~~California~~ Department of the *California* Highway Patrol for allocation to the California Peace ~~Officer~~ *Officers'* Memorial Commission for building and maintaining the California Peace ~~Officer~~ *Officers'* Memorial in Sacramento, California, and for activities performed by the California Peace Officer Memorial Foundation in support of families of slain peace officers.

(c) All money transferred to the California Peace Officer Memorial Foundation Fund prior to the enactment of the act adding this subdivision is hereby appropriated for allocation as described in subdivisions (a) and (b).

SEC. 472. Section 18808 of the Revenue and Taxation Code is amended to read:

18808. (a) This article shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2021, deletes that date.

(b) If the repeal date specified in subdivision (a) has been deleted, all of the following apply:

(1) By September 1 of the calendar year beginning after the effective date of the act deleting the repeal date and by September 1 of each subsequent calendar year that the California Peace ~~Officer~~ *Officers'* Memorial Foundation Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the California Peace Officer Memorial Commission of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($250,000) for the first calendar year beginning after the effective date of the act that deleted the repeal date specified in subdivision (a), or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2005, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 473. Section 19183 of the Revenue and Taxation Code is amended to read:

19183. (a) (1) A penalty shall be imposed for failure to file correct information returns, as required by this part, and that penalty shall be determined in accordance with Section 6721 of the Internal Revenue Code.

(2) Section 6721(e) of the Internal Revenue Code is modified to the extent that the reference to Section 6041A(b) of the Internal Revenue Code ~~shall~~ *does* not apply.

(b) (1) A penalty shall be imposed for failure to furnish correct payee statements as required by this part, and that penalty shall be

determined in accordance with Section 6722 of the Internal Revenue Code.

(2) Section 6722(c) of the Internal Revenue Code is modified to the extent that the references to Sections 6041A(b) and 6041A(e) of the Internal Revenue Code ~~shall~~ *do* not apply.

(c) A penalty shall be imposed for failure to comply with other information reporting requirements under this part, and that penalty shall be determined in accordance with Section 6723 of the Internal Revenue Code.

(d) (1) The provisions of Section 6724 of the Internal Revenue Code relating to waiver, definitions, and special rules, shall apply, except as otherwise provided.

(2) Section 6724(d)(1) of the Internal Revenue Code is modified as follows:

(A) The following references are substituted:

(i) Subdivision (a) of Section 18640, in lieu of Section 6044(a)(1) of the Internal Revenue Code.

(ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a) of the Internal Revenue Code.

(B) References to Sections 4093(c)(4), 4093(e), 4101(d), 6041(b), 6041A(b), 6045(d), 6051(d), and 6053(c)(1) of the Internal Revenue Code ~~shall~~ *do* not apply.

(C) The term "information return" shall also include both of the following:

(i) The return required by paragraph (1) of subdivision ~~(i)~~ *(g)* of Section 18662.

(ii) The return required by subdivision (a) of Section 18631.7.

(3) Section 6724(d)(2) of the Internal Revenue Code is modified as follows:

(A) The following references are substituted:

(i) Subdivision (b) of Section 18640, in lieu of Section 6044(e) of the Internal Revenue Code.

(ii) Subdivision (b) of Section 18644, in lieu of Section 6050A(b) of the Internal Revenue Code.

(B) References to Sections 4093(c)(4)(B), 6031(b), 6037(b), 6041A(e), 6045(d), 6051(d), 6053(b), and 6053(c) of the Internal Revenue Code ~~shall~~ *do* not apply.

(C) The term "payee statement" shall also include the statement required by paragraph (2) of subdivision ~~(i)~~ *(g)* of Section 18662.

(e) In the case of each failure to provide a written explanation as required by Section 402(f) of the Internal Revenue Code, at the time prescribed therefor, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Franchise Tax Board and in the same manner as tax, by the person failing to provide that written explanation, an amount equal to ten dollars ($10) for each failure, but the total amount imposed on that person for all those failures during ~~any~~ *a* calendar year shall not exceed five thousand dollars ($5,000).

(f) ~~Any~~ *A* penalty imposed by this part shall be paid on notice and demand by the Franchise Tax Board and in the same manner as tax.

SEC. 474. 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*, qualified shareholder, qualified member, or qualified beneficiary*.

(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~~ *A* 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~~ *A* 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~~ *A* penalty related to a failure to make and file a return, as provided in Section 19131.

(ii) ~~Any~~ *A* penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in Section 19132.

(iii) ~~Any~~ *An* addition to tax related to an underpayment of estimated tax, as provided in Section 19136.

(iv) ~~Any~~ *A* 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~~ *A* penalty related to a failure to furnish information or maintain records, as provided in Section 19141.5.

(vi) ~~Any~~ *An* addition to tax related to an underpayment of tax imposed under Part 11 (commencing with Section 23001), as provided in Section 19142.

(vii) ~~Any~~ *A* penalty related to a partnership required to file a return under Section 18633, as provided in Section 19172.

(viii) ~~Any~~ *A* penalty related to a failure to file information returns, as provided in Section 19183.

(ix) ~~Any~~ *A* 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 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~~ *An* addition to tax under Section 19136 or 19142 shall *not* 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 Chapter 296 of the Statutes of 2011 shall apply to voluntary disclosure agreements entered into on or after January 1, 2011.

SEC. 475. Section 19255 of the Revenue and Taxation Code is amended to read:

19255. (a) Except as otherwise provided in subdivisions (b) and (e), after 20 years have lapsed from the date the latest tax liability for a taxable year or the date any other liability that is not associated with a taxable year becomes "due and payable" within the meaning of Section 19221, the Franchise Tax Board may not collect that amount and the taxpayer's liability to the state for that liability is abated by reason of lapse of time. Any actions taken by the Franchise Tax Board to collect an uncollectible liability shall be released, withdrawn, or otherwise terminated by the Franchise Tax Board, and no subsequent administrative or civil action shall be taken or brought to collect all or part of that uncollectible amount. Any amounts received in contravention of this section shall be considered an overpayment ~~pursuant to Section 19306~~ that may be credited and refunded in accordance with *Article 1 (commencing with* Section ~~19301~~ *19301) of Chapter 6*.

(b) If a timely civil action filed pursuant to Article 2 of Chapter 6 of this part is commenced, or a claim is filed in a probate action, the period for which the liability is collectable shall be extended and shall not expire until that liability, probate claim, or judgment against the taxpayer arising from that liability is satisfied or becomes unenforceable under the laws applicable to the enforcement of civil judgments.

(c) For purposes of this section, both of the following apply:

(1) "Tax liability" means a liability imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and includes any additions to tax,

interest, penalties, fees and any other amounts relating to the imposed liability.

(2) If more than one liability is "due and payable" for a particular taxable year, with the exception of a liability resulting from a penalty imposed under Section 19777.5, the "due and payable" date that is later in time shall be the date upon which the 20-year limitation of subdivision (a) commences.

(d) This section shall not apply to amounts subject to collection by the Franchise Tax Board pursuant to Article 5, 5.5, or 6 of this chapter, or any other amount that is not a tax imposed under Part 10 or Part 11, but which the Franchise Tax Board is collecting as though it were a final personal income tax delinquency.

(e) (1) The expiration of the period of limitation on collection under this section shall be suspended for the following periods:

(A) The period that the Franchise Tax Board is prohibited from involuntary collection under subparagraph (B) of paragraph (1) of subdivision (b) of Section 19271 relating to collection of child support delinquencies, plus 60 days thereafter.

(B) The period during which the Franchise Tax Board is prohibited by reason of a bankruptcy case from collecting, plus six months thereafter.

(C) The period described under subdivision (d) of Section 19008 relating to installment payment agreements.

(D) The period during which collection is postponed by operation of law under Section 18571, related to postponement by reason of service in a combat zone, or under Section 18572, related to postponement by reason of presidentially declared disaster or terroristic or military action.

(E) During any other period during which collection of a tax is suspended, postponed, or extended by operation of law.

(2) A suspension of the period of limitation under this subdivision shall apply with respect to both parties of any liability that is joint and several.

(f) This section shall be applied on and after July 1, 2006, to any liability "due and payable" before, on, or after that date.

SEC. 476. Chapter 9.5 (commencing with Section 19778) of Part 10.2 of Division 2 of the Revenue and Taxation Code, as added by Section 13 of Chapter 654 of the Statutes of 2003, is repealed.

SEC. 477. Section 23151 of the Revenue and Taxation Code is amended to read:

23151. (a) With the exception of banks and financial corporations, every corporation doing business within the limits of this state and not expressly exempted from taxation by the provisions of the Constitution of this state or by this part, shall annually pay to the state, for the privilege of exercising its corporate franchises within this state, a tax according to or measured by its net income, to be computed at the rate of 7.6 percent upon the basis of its net income for the next preceding income year, or if greater, the minimum tax specified in Section 23153.

(b) For calendar or fiscal years ending after June 30, 1973, the rate of tax shall be 9 percent instead of 7.6 percent as provided by subdivision (a).

(c) For calendar or fiscal years ending in 1980 to 1986, inclusive, the rate of tax shall be 9.6 percent.

(d) For calendar or fiscal years ending in 1987 to 1996, inclusive, and for any income year beginning before January 1, 1997, the tax rate shall be 9.3 percent.

(e) For any income year beginning on or after January 1, 1997, *and before the income year identified in subparagraph (A) of paragraph (1) of subdivision (f),* the tax rate shall be 8.84 percent. The change in rate provided in this subdivision shall be made without proration otherwise required by Section 24251.

(f) (1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net

income for that taxable year, but not less than the minimum tax specified in Section 23153.

SEC. 478. The heading of Article 3 (commencing with Section 23571) of Chapter 3 of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

~~Article 3. Suspensions~~

SEC. 479. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2016, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph ~~shall~~ *does* not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(iv) This subparagraph shall cease to be operative with respect to any project that receives a preliminary reservation of a credit on or after January 1, 2016.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code ~~shall~~ apply to this section.

(E) (i) Except as described in clause (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of its occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

~~(G)~~

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and

3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715*l*(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any

time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return ~~shall apply~~ *applies* in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code ~~shall~~ *does* not ~~be applicable~~ *apply* and instead the following provisions ~~shall be applicable:~~ *apply:*

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code ~~shall~~ *do* not ~~be applicable~~ *apply*.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars ($500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code ~~shall~~ *does* not ~~be applicable~~ *apply* and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and this agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto, and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing

sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate that there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(*l*) In the case ~~where~~ *in which* the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, ~~shall~~ apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, ~~shall~~ *do* not apply.

(q) (1) A corporation may elect to assign any portion of any 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, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation 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 the affiliated corporations that assign and receive the credits.

(r) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

(s) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

SEC. 480. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the "tax" (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1

(commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) CalFresh benefits.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code).

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter

12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services

of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding 10 taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from

prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision ~~shall~~ apply to taxable years on or after January 1, 1997.

(*l*) (1) Except as provided in paragraph (2), this section shall cease to be operative on January 1, 2014, and shall be repealed on December 1, 2019. A credit shall not be allowed under this section with respect to an employee who first commences employment with a taxpayer on or after January 1, 2014.

(2) This section shall continue to apply with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 481. Section 23626 of the Revenue and Taxation Code is amended to read:

23626. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the "tax," as defined by Section 23036, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for the taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or economic development area, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee who is employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or economic development area with comparable compensation.

(B) For purposes of this paragraph, "relocates to a designated census tract or economic development area" means an increase in

the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or economic development areas within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or economic development areas.

(C) This paragraph ~~shall~~ *does* not apply to a small business.

(4) The credit allowed by this section may only be claimed on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The "tentative credit amount" for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The "applicable percentage" for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The "applicable credit percentage" means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) "Base year" means the 2013 taxable year, or in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 2015, the taxable year immediately preceding the taxable year in which the qualified full-time employee was hired.

(5) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the qualified taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(7) "Designated census tract" means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) "Economic development area" means either of the following:

(A) A former enterprise zone. For purposes of this section, "former enterprise zone" means an enterprise zone designated and in effect as of December 31, 2011, any enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

(9) "Minimum wage" means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(10) (A) "Qualified full-time employee" means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or economic development area.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vi) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual who completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

(B) An individual may only be considered a qualified full-time employee for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) "Qualified taxpayer" means a corporation engaged in a trade or business within designated census tract or economic

development area that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru 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 or Section 17053.73 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) "Qualified taxpayer" shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

~~(aa)~~

(ia) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

~~(ab)~~

(ib) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of

the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(D) Subparagraph (C) shall not apply to a taxpayer that is a "small business."

(12) "Qualified wages" means those wages that meet all of the following requirements:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of the minimum wage.

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars ($10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of the minimum wage. For qualified full-time employees described in the preceding sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting "ten dollars ($10) per hour or an equivalent amount for salaried employees" for "150 percent of the minimum wage."

(II) For purposes of this clause:

~~(aa)~~

(ia) "Designated pilot area" means an area designated as a designated pilot area by the Governor's Office of Business and Economic Development.

~~(ab)~~

(ib) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

~~(ac)~~

(ic) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an

economic development area based on high poverty or high unemployment.

~~(ad)~~

(id) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may be extended, in the sole discretion of the Governor's Office of Business and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor's Office of Business and Economic Development and shall not be subject to administrative appeal or judicial review.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (m), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer determined to be a designated census tract.

(13) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(14) (A) "Small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars ($2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "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.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation and to each partner or shareholder.

(iii) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the dollar amount specified in subparagraph (A) shall apply to the aggregate gross receipts of all taxpayers that are required to be or authorized to be included in a combined report.

(C) (i) "Small business" shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(15) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting

from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the base year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the base year shall be zero.

(d) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (g) of Section ~~24416.20,~~ *24416,* without application of paragraph (7) of that subdivision, ~~shall~~ apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirement as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, the social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hire in a previous taxable year, on or before the 15th day of the third month of the taxable year. The

certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 17053.73.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date that the Department of Finance redesignates the designated census tracts.

(h) (1) For purposes of this section:

(A) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single qualified taxpayer.

(B) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(C) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(D) If a qualified taxpayer acquires the major portion of a trade or business of another taxpayer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and a qualified taxpayer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(2) For purposes of this subdivision, "controlled group of corporations" means a controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, except that:

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(3) Rules similar to the rules provided in Sections 46(e) and 46(h) of the Internal Revenue Code, as in effect on November 4, 1990, shall apply to both of the following:

(A) An organization to which Section 593 of the Internal Revenue Code applies.

(B) A regulated investment company or a real estate investment trust subject to taxation under this part.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with

the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) ~~shall~~ *does* not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(4) ~~Any~~ *An* increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the succeeding four years if necessary, until exhausted.

(k) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. 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 rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(*l*) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020 –21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(m) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic

development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

SEC. 482. Section 23634 of the Revenue and Taxation Code is amended to read:

23634. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined by Section 23036) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section

11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) CalFresh benefits.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member

of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) 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 or Section 17053.34 shall be allowed to the passthrough entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term "passthrough entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause

(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of

the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) ~~shall~~ *does* not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) ~~Any~~ *An* increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) Rules similar to the rules provided in Sections 46(e) and (h) of the Internal Revenue Code ~~shall~~ apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(h) For purposes of this section, "targeted tax area" means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case ~~where~~ *in which* the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding 10 taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value

of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 483. Section 23732 of the Revenue and Taxation Code is amended to read:

23732. Section 512 of the Internal Revenue Code, relating to unrelated business taxable income, ~~shall apply,~~ *applies,* except as otherwise provided.

(a) Section 512(a)(2) of the Internal Revenue Code, relating to special rule for foreign organizations, ~~shall~~ *does* not ~~be applicable~~ *apply*.

(b) Section 512(a)(3) of the Internal Revenue Code, relating to special rules applicable to organizations described in paragraph (7), (9), (17), or (20) of Section 501(c), shall be modified as follows:

(1) The reference to Section 501(c)(7) of the Internal Revenue Code shall be modified to refer to Section 23701g.

(2) The reference to Section 501(c)(9) of the Internal Revenue Code shall be modified to refer to Section 23701i.

(3) The reference to Section 501(c)(17) of the Internal Revenue Code shall be modified to refer to Section 23701n.

(4) The reference to Section 501(c)(20) of the Internal Revenue Code shall be modified to refer to Section 23701q.

(c) Section 512(d) of the Internal Revenue Code, relating to treatment of dues of agricultural or horticultural organizations, shall be modified by substituting "Section 23701a" for "Section 501(c)(5)" of the Internal Revenue Code.

~~(d) Section 512(b)(13)(E) of the Internal Revenue Code is modified as follows:~~

~~(1) The phrase "tax imposed under Part 10 (commencing with Section 17001) or this part" shall be substituted for "tax imposed by this chapter" in Section 512(b)(13)(E)(ii) of the Internal Revenue Code.~~

~~(2) The phrase "January 1, 2010," shall be substituted for "the date of the enactment of this subparagraph" in Section 512(b)(13)(iii)(I) of the Internal Revenue Code.~~

~~(3) The amendments made by the act adding this subdivision shall apply to payments received or accrued on or after January 1, 2010.~~

SEC. 484. Section 24347.6 of the Revenue and Taxation Code is amended to read:

24347.6. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses sustained in the County of Mendocino as a result of the tsunami that occurred in March 2011.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following

the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section ~~24416.20,~~ *24416*, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) This section and Section 165(i) of the Internal Revenue Code ~~shall be applicable~~ *apply* to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) ~~Any~~ *A* corporation subject to Section 25101 or 25101.15 that has disaster losses pursuant to this section shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section shall not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 485. Section 24347.10 of the Revenue and Taxation Code is amended to read:

24347.10. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses sustained in the County of

San Mateo as a result of the explosion and fire that occurred in September 2010.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section ~~24416.20,~~ *24416*, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) This section and Section 165(i) of the Internal Revenue Code ~~shall be applicable~~ *apply* to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) ~~Any~~ *A* corporation subject to Section 25101 or 25101.15 that has disaster losses pursuant to this section shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section ~~may~~ *shall* not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 486. Section 24355.4 of the Revenue and Taxation Code, as added by Chapter 691 of the Statutes of 2005, is amended and renumbered to read:

~~24355.4.~~

24355.5. For purposes of computing the depreciation deduction pursuant to Section 24349, the useful life of any Alaska natural gas pipeline, as defined in Section 168(i)(16) of the Internal Revenue Code, shall be seven years.

SEC. 487. Section 24416.20 of the Revenue and Taxation Code is amended and renumbered to read:

~~24416.20.~~

24416. Except as provided in Sections 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following ~~shall~~ apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014,

the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Section 172(b)(1)(E) of the Internal Revenue Code, relating to excess interest loss, and Section 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest losses, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(e) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 years" except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any income year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" referred to in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the taxable year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an "S" corporation, paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and

intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section ~~1221(1)~~ *1221(a)(1)* of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section ~~1221(1)~~ *1221(a)(1)* of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In ~~any~~ *a* case ~~where~~ *in which* a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In ~~any~~ *a* case ~~where~~ *in which* the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by

treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1).

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 ~~shall apply~~ *applies* to each of the following:

(1) The amount of net operating loss incurred in any taxable year that may be carried forward to another taxable year.

(2) The amount of any loss carry forward that may be deducted in any taxable year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, ~~shall~~ *do* not ~~be applicable~~ *apply*.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(*l*) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 ~~shall~~ apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 488. Section 24416.21 of the Revenue and Taxation Code is amended to read:

24416.21. (a) Notwithstanding Sections 24416, 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, ~~24416.7, and 24416.20~~ *and 24416.7* of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2012.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(3) By three years, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(4) By four years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2013.

(d) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2008, and before January 1, 2010, pursuant to subdivision (a) shall not apply to a

taxpayer with income subject to tax under this part of less than five hundred thousand dollars ($500,000) for the taxable year.

(e) (1) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2010, and before January 1, 2012, pursuant to subdivision (a) shall not apply to a taxpayer with preapportioned income of less than three hundred thousand dollars ($300,000) for the taxable year.

(2) For purposes of this subdivision, "preapportioned income" means net income after state adjustments, before the application of the apportionment and allocation provisions of this part.

(3) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the amount prescribed in paragraph (1) shall apply to the aggregate amount of preapportioned income for all members included in a combined report.

(f) Notwithstanding subdivision (a), this section shall not apply to a taxpayer that ceased to do business or has a final taxable year ending prior to August 28, 2008, that sold or transferred substantially all of its assets resulting in a gain on sale during a taxable year ending prior to August 28, 2008, for which the gain could be offset with existing net operating loss deductions and the sale or transfer occurred pursuant to a plan of reorganization under Chapter 11 of Title 11 of the United States Code. An amended tax return claiming net operating loss deductions allowed pursuant to this subdivision shall be treated as a timely filed original return.

(g) The Legislature finds and declares that the addition of subdivision (f) to this section by the act adding this subdivision fulfills a statewide public purpose by providing necessary tax relief for a taxpayer that ceased to do business or has a final taxable year ending prior to August 28, 2008, that sold or transferred substantially all of its assets resulting in a gain or sale during a taxable year prior to August 28, 2008, for which the gain could be offset with existing net operating loss deductions and the sale or transfer occurred pursuant to a plan of reorganization under Chapter 11 of Title 11 of the United States Code, in order to ensure that these taxpayers are not permanently denied the net operating loss deduction.

SEC. 489. Section 24661.3 of the Revenue and Taxation Code, as added by Section 54 of Chapter 34 of the Statutes of 2002, is repealed.

~~24661.3. (a) (1) The options under Sections 112(d)(2) and 112(d)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7212(d)(2) and (3)), as in effect on October 12, 1998, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under Subtitle B of Title I of that act (as so in effect) is properly includable in gross income for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).~~

~~(2) In order to provide farmers with the same tax treatment for all payments in years beginning before January 1, 2002, with respect to production flexibility contract payments as provided under federal law as modified by Public Law 105-277, this subdivision shall apply to taxable years ending after December 31, 1995.~~

~~(b) Any option to accelerate the receipt of any payment under a production flexibility contract entered into on or after January 1, 2002, that is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7200 et seq.) as in effect on December 17, 1999, shall be disregarded in determining the taxable year for which that payment is properly includable in gross income for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).~~

SEC. 490. Section 24685.5 of the Revenue and Taxation Code, as added by Section 56 of Chapter 34 of the Statutes of 2002, is repealed.

~~24685.5. (a) The amendment made by Section 7001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 404(a)(11) of the Internal Revenue Code, regarding determinations relating to deferred compensation, shall apply to taxable years beginning on or after January 1, 2002.~~

~~(b) In the case of any taxpayer required by enactment of this section to change its method of accounting, for that taxpayer's first taxable year beginning on or after January 1, 2002, each of the following shall apply for purposes of this part, Part 10~~

~~(commencing with Section 17001), and Part 10.2 (commencing with Section 18401):~~

~~(1) The change shall be treated as initiated by the taxpayer.~~

~~(2) The change shall be treated as made with the consent of the Franchise Tax Board.~~

~~(3) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 13 (commencing with Section 24631) shall be taken into account ratably over the three-taxable-year period beginning with that taxpayer's first taxable year beginning on or after January 1, 2002.~~

SEC. 491. Section 24989 of the Revenue and Taxation Code is repealed.

~~24989. Section 1056 of the Internal Revenue Code, relating to basis limitation for player contracts transferred in connection with the sale of a franchise, shall apply, except as otherwise provided.~~

SEC. 492. Section 32432 of the Revenue and Taxation Code, as added by Section 24 of Chapter 929 of the Statutes of 1999, is amended and renumbered to read:

~~32432.~~

32432.5. (a) Notwithstanding any other provision of this part, if the board finds that neither the person liable for payment of tax nor any party related to that person has in any way caused an erroneous refund for which an action for recovery is provided under Section 32431, no interest shall be imposed on the amount of that erroneous refund until 30 days after the date on which the board mails a notice of determination for repayment of the erroneous refund to the person. The act of filing a claim for refund shall not be considered as causing the erroneous refund.

(b) This section shall be operative for any action for recovery under Section 32431 on or after January 1, 2000.

SEC. 493. Section 40069 of the Revenue and Taxation Code, as added by Section 18 of Chapter 459 of the Statutes of 2002, is amended and renumbered to read:

~~40070~~

40069.5. (a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic media shall be filed and authenticated pursuant to any method or form the board may prescribe.

(b) Notwithstanding any other law, any return, declaration, statement, or other document otherwise required to be signed that

is filed by the taxpayer using electronic media in a form as required by the board shall be deemed to be a signed, valid original document, including upon reproduction to paper form by the board.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

SEC. 494. Section 45752 of the Revenue and Taxation Code, as added by Section 41 of Chapter 609 of the Statutes of 1998, is amended and renumbered to read:

~~45752.~~

45754. In any action brought pursuant to subdivision (a) of Section 45751, the court may, with the consent of the Attorney General, order a change in the place of trial.

SEC. 495. Section 55262 of the Revenue and Taxation Code, as added by Section 76 of Chapter 929 of the Statutes of 1999, is amended and renumbered to read:

~~55262.~~

55262.5. (a) Notwithstanding any other provision of this part, if the board finds that neither the person liable for payment of fees nor any party related to that person has in any way caused an erroneous refund for which an action for recovery is provided under Section 55261, no interest shall be imposed on the amount of that erroneous refund until 30 days after the date on which the board mails a notice of determination for repayment of the erroneous refund to the person. The act of filing a claim for refund shall not be considered as causing the erroneous refund.

(b) This section shall be operative for any action for recovery under Section 55261 on or after January 1, 2000.

SEC. 496. The heading of Article 6.5 (commencing with Section 217) of Chapter 1 of Division 1 of the Streets and Highways Code is repealed.

~~Article 6.5. Design-Sequencing Demonstration and Evaluation Program~~

SEC. 497. Section 2192 of the Streets and Highways Code is amended to read:

2192. (a) The Trade Corridors Improvement Fund, created pursuant to subdivision (c) of Section 8879.23 of the Government Code, is hereby continued in existence to receive revenues from

sources other than the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. This chapter shall govern expenditure of those other revenues.

(b) The moneys in the fund from those other sources shall be available upon appropriation for allocation by the California Transportation Commission for infrastructure improvements in this state on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement, as determined by the commission. In determining the projects eligible for funding, the commission shall consult the ~~state~~ Transportation Agency's state freight plan as described in Section 13978.8 of the Government Code, the State Air Resources Board's Sustainable Freight Strategy adopted by Resolution 14-2, and the trade infrastructure and goods movement plan submitted to the commission by the Secretary of Transportation and the Secretary ~~of~~ *for* Environmental Protection ~~Agency~~. The commission shall also consult trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the statewide port master plan prepared by the California Marine and Intermodal Transportation System Advisory Council (Cal-MITSAC) pursuant to Section 1730 of the Harbors and Navigation Code, when determining eligible projects for funding. Eligible projects for these funds include, but are not limited to, all of the following:

(1) Highway capacity improvements and operational improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state's land ports of entry and seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

(2) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers throughout California, including projects that separate rail lines from highway or local road traffic, improve freight rail mobility through mountainous regions, relocate rail switching yards, and other projects that improve the efficiency and capacity of the rail freight system.

(3) Projects to enhance the capacity and efficiency of ports.

(4) Truck corridor improvements, including dedicated truck facilities or truck toll facilities.

(5) Border access improvements that enhance goods movement between California and Mexico and that maximize the state's ability to access coordinated border infrastructure funds made available to the state by federal law.

(6) Surface transportation and connector road improvements to effectively facilitate the movement of goods, particularly for ingress and egress to and from the state's land ports of entry, airports, and seaports, to relieve traffic congestion along major trade or goods movement corridors.

(c) (1) The commission shall allocate funds for trade infrastructure improvements from the fund consistent with Section 8879.52 of the Government Code and the Trade Corridors Improvement Fund (TCIF) Guidelines adopted by the commission on November 27, 2007, or as amended by the commission, and in a manner that (A) addresses the state's most urgent needs, (B) balances the demands of various land ports of entry, seaports, and airports, (C) provides reasonable geographic balance between the state's regions, and (D) places emphasis on projects that improve trade corridor mobility while reducing emissions of diesel particulate and other pollutant emissions.

(2) In addition, the commission shall also consider the following factors when allocating these funds:

(A) "Velocity," which means the speed by which large cargo would travel from the land port of entry or seaport through the distribution system.

(B) "Throughput," which means the volume of cargo that would move from the land port of entry or seaport through the distribution system.

(C) "Reliability," which means a reasonably consistent and predictable amount of time for cargo to travel from one point to another on any given day or at any given time in California.

(D) "Congestion reduction," which means the reduction in recurrent daily hours of delay to be achieved.

SEC. 498. The heading of Division 6 (commencing with Section 4000) of the Streets and Highways Code is repealed.

~~DIVISION 6. STREET OPENING~~

SEC. 499. Section 5132.1 of the Streets and Highways Code, as amended by Chapter 416 of the Statutes of 1963, is amended and renumbered to read:

~~5132.1. In the event that~~

5132.05. (a) If the proceedings include any acquisition and the actual cost of the acquisition as finally determined is less than the amount included in the assessment as the cost of ~~such~~ *the* acquisition, ~~such~~ *the* excess may be spent as the legislative body may thereafter determine, either for the maintenance or repair of the work or improvement, or ~~such~~ *the* excess shall be refunded or credited in proportion to the amount of the assessments that were levied for ~~such~~ *the* acquisition cost, as follows:

~~(a) Where~~

(1) If the assessment and all installments thereof and all interest and penalties due thereon have been paid, ~~such~~ *the* refund shall be returned in cash to the person who paid the corresponding assessment or installment, upon ~~his~~ furnishing satisfactory evidence of ~~such~~ *the* payment.

~~(b) Where~~

(2) If the assessment or any installment thereof is unpaid, the credit shall be applied upon ~~such~~ *the* assessment or upon the earliest unpaid installment of principal and interest.

~~In the event~~

(b) If the legislative body determines that ~~such~~ *the* excess shall be used for maintenance or repair, the legislative body shall establish a separate fund of ~~such~~ *the* excess and shall use ~~the same~~ *it* solely for ~~said~~ *that* purpose.

SEC. 500. Section 125.4 of the Unemployment Insurance Code is amended to read:

125.4. "American employer" means any of the following:

(a) An individual who is a resident of the United States.

(b) A partnership, if two-thirds or more of the partners are residents of the United States.

(c) A trust, if all of the trustees are residents of the United States.

(d) A corporation organized under the laws of the United States or of any state.

(e) A limited liability company organized under the laws of the United States or of any state.

(f) ~~Any~~ *An* Indian tribe as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code.

SEC. 501. Section 135 of the Unemployment Insurance Code is amended to read:

135. (a) "Employing unit" means ~~any~~ *an* individual or type of organization that has in its employ one or more individuals performing services for it within this state, and includes but is not limited to, the following individuals and organizations:

(1) ~~Any~~ *An* individual or type of organization or public entity that elects coverage pursuant to any provision of this division.

(2) ~~Any~~ *A* joint venture, partnership, association, trust, estate, joint stock company, insurance company, corporation whether domestic or foreign, limited liability company, whether domestic or foreign, community chest, fund, or foundation.

(3) ~~Any~~ *A* public entity. As used in this section, "public entity" means the State of California (including the Trustees of the California State University), ~~any~~ *an* instrumentality of this state (including the Regents of the University of California), ~~any~~ *a* political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of ~~any~~ *a* school district or community college district, ~~any~~ *a* county board of education, ~~any~~ *a* county superintendent of schools, or ~~any~~ *a* personnel commission of a school district or community college district that has a merit system pursuant to ~~any provision of~~ the Education Code), entities receiving state money to conduct county fairs and agricultural fairs pursuant to Sections 25905 and 25906 of the Government Code and that perform no other functions, ~~any~~ *a* public authority, public agency, or public corporation of this state, ~~any~~ *an* instrumentality of more than one of the foregoing, and ~~any~~ *an* instrumentality of any of the foregoing and one or more other states or political subdivisions.

(4) ~~Any~~ *An* instrumentality of the United States required to make payments under this division.

(5) The receiver, trustee in bankruptcy, trustee or successor thereof, and the legal representative of a deceased person.

(6) ~~Any~~ *An* Indian tribe as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code.

(b) All individuals performing services within this state for ~~any~~ *an* employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this division. This subdivision does not apply to ~~any~~ *an* Indian tribe (as described

by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code) and the subdivisions, subsidiaries, or other business enterprises wholly owned by the Indian tribe if the tribe chooses to treat those subdivisions, subsidiaries, or other business enterprises as separate business entities for the purposes of Section 803.

SEC. 502. Section 605 of the Unemployment Insurance Code is amended to read:

605. (a) Except as provided by Section 634.5, "employment" for the purposes of this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) includes all service performed by an individual (including blind and otherwise disabled individuals) for any public entity or Indian tribe, if the service is excluded from "employment" under the ~~federal~~ *Federal* Unemployment Tax Act solely by reason of ~~paragraph (7) of~~ Section 3306(c)*(7)* of ~~that act.~~ *Title 26 of the United States Code.*

(b) For purposes of this section:

(1) "Public entity" means the State of California (including the Trustees of the California State University and Colleges, and the California Industries for the Blind), ~~any~~ *an* instrumentality of this state (including the Regents of the University of California), ~~any~~ *a* political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of ~~any~~ *a* school district or community college district, ~~any~~ *a* county board of education, ~~any~~ *a* county superintendent of schools, or ~~any~~ *a* personnel commission of a school district or community college district that has a merit system pursuant to ~~any provision of~~ the Education Code), entities conducting fairs as identified in Sections 19418 to 19418.3, inclusive, of the Business and Professions Code, ~~any~~ *a* public authority, public agency, or public corporation of this state, ~~any~~ *an* instrumentality of more than one of the foregoing, and ~~any~~ *an* instrumentality of any of the foregoing and one or more other states or political subdivisions.

(2) "Indian tribe" means ~~any~~ *an* Indian tribe described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code.

SEC. 503. Section 634.5 of the Unemployment Insurance Code is amended to read:

634.5. Notwithstanding any other provision of law, ~~no~~ *a* provision excluding service from "employment" ~~shall~~ *does not*

apply to ~~any~~ *an* entity defined by Section 605 or to ~~any~~ *a* nonprofit organization described by Section 608, except as provided by this section. With respect to ~~any~~ *an* entity defined by Section 605 or ~~any~~ *a* nonprofit organization described by Section 608, "employment" does not include service excluded under Sections 629, 631, 635, and 639 to 648, inclusive, or service performed in any of the following:

(a) In the employ of either of the following:

(1) A church or convention or association of churches.

(2) An organization ~~which~~ *that* is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(c) In the employ of ~~any~~ *an* entity defined by Section 605, if the service is performed by an individual in the exercise of his or her duties as any of the following:

(1) An elected official.

(2) A member of a legislative body or a member of the judiciary of a state or a political subdivision of a state.

(3) A member of the tribal council of an Indian tribe as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code.

(4) A member of a State National Guard or Air National Guard.

(5) An employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(6) An employee in a position that, under or pursuant to state or tribal law, is designated as either of the following:

(A) A major nontenured policymaking or advisory position.

(B) A policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week.

(7) (A) Except as otherwise provided in subparagraph (B), an election official or election worker if the amount of remuneration reasonably expected to be received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars ($1,000).

(B) This paragraph shall not take effect unless and until the service is excluded from service to which ~~paragraph (1) of subdivision (a) of~~ Section 3309*(a)(1)* of Title 26 of the United States Code applies by reason of exemption under ~~subdivision (b) of~~ Section 3309*(b)* of that act.

(d) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of either:

(1) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury.

(2) Providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(e) By an individual receiving work relief or work training as part of an unemployment work relief or work training program assisted or financed in whole or in part by any of the following:

(1) A federal agency.

(2) An agency of a state or a political subdivision thereof.

(3) An Indian tribe, as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code.

(f) By a ward or an inmate of a custodial or penal institution pursuant to Article 1 (commencing with Section 2700), Article 4 (commencing with Section 2760), and Article 5 (commencing with Section 2780) of Chapter 5 of, and Article 1 (commencing with Section 2800) of Chapter 6 of, Title 1 of Part 3 of the Penal Code, Section 4649 and Chapter 1 (commencing with Section 4951) of Part 4 of Division 4 of the Public Resources Code, and Sections 883, 884, and 1768 of the Welfare and Institutions Code.

(g) By an individual under the age of 18 years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) By an individual in the sale of newspapers or magazines to ultimate consumers, under an arrangement that includes the following conditions:

(1) The newspapers or magazines are to be sold by the individual at a fixed price.

(2) The individual's compensation is based on retention of the excess of the price over the amount at which the newspapers or magazines are charged to the individual, whether or not he or she

is guaranteed a minimum amount of compensation for the service or is entitled to be credited with the unsold newspapers or magazines that he or she returns.

(i) (1) Except as otherwise provided in paragraph (2), as a substitute employee whose employment does not increase the size of the employer's normal workforce, whose employment is required by law, and whose employment as a substitute employee does not occur on more than 60 days during the base period.

(2) This subdivision shall not take effect unless and until the United States Secretary of Labor, or his or her designee, finds that this subdivision is in conformity with federal requirements.

(j) As a participant in a national service program carried out using assistance provided under Section 12571 of Title 42 of the United States Code.

SEC. 504. Section 710.6 of the Unemployment Insurance Code is amended to read:

710.6. (a) Notwithstanding Section 709, ~~any~~ *an* Indian tribe as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code, including ~~those~~ tribes not covered by the Tribal-State Gaming Compact, may elect to become an employer subject to Part 2 (commencing with Section 2601) with respect to all employees who meet either of the following conditions:

(1) Are employed in one or more distinct establishments or places of business.

(2) Are a part of an employee bargaining unit provided the election is the result of a negotiated agreement between the Indian tribe and the recognized employee organization. The Indian tribe also may elect to provide coverage to its management and confidential employees and to its employees who are not a part of an employee bargaining unit, but the election by the bargaining unit shall not be contingent upon coverage of other employees of the Indian tribe.

(b) Upon filing of an election, the filing entity shall, upon approval by the director, become an employer subject to Part 2 (commencing with Section 2601) to the same extent as other employers, and services performed by its employees who are subject to an election under this section shall constitute employment subject to that part. Sections 986 and 2903 apply to an employer making an election pursuant to this section.

(c) This section does not affect the requirement that Indian tribes covered by the Tribal-State Gaming Compact be subject to Part 2 (commencing with Section 2601).

SEC. 505. Section 802 of the Unemployment Insurance Code is amended to read:

802. (a) The State of California, any other public entity (as defined by Section 605), or any Indian tribe as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code, or any subdivision, subsidiary, or business enterprise wholly owned by that Indian tribe, for which services are performed that do constitute employment under Section 605 may, in lieu of the contributions required of employers, elect to finance its liability for unemployment compensation benefits, extended duration benefits, and federal-state extended benefits with respect to those services by any method of financing coverage that is permitted under Section 803.

(b) ~~Any~~ *An* election under Section 803 for financing coverage under this section shall take effect with respect to services performed from and after the first day of the calendar quarter in which the election is filed with the director, and shall continue in effect for not less than two full calendar years, unless the election is ~~cancelled~~ *canceled* by the director pursuant to paragraph (2) of subdivision (g) of Section 803. Thereafter the election under Section 803 may be terminated as of January 1 of any calendar year only if the state or other public entity or Indian tribe, on or before the 31st day of January of that year, has filed with the director a written application for termination. The director may for good cause waive the requirement that a written application for termination shall be filed on or before the 31st day of January. ~~In no event shall financing~~ *Financing* coverage by an election under Section 803 ~~be~~ *is not* valid ~~that~~ *if it* would establish any different method of financing coverage for any calendar quarter where an election for coverage has also been made by the state or other public entity or Indian tribe under any provision of Article 4 (commencing with Section 701) of this chapter.

(c) The director may require from the state and other public entity and Indian tribe, including ~~any~~ *an* agent thereof, ~~such~~ employment, financial, statistical, or other information and reports, properly verified, as may be deemed necessary by the director to carry out his or her duties under this division, which shall be filed

with the director at the time and in the manner prescribed by him or her.

(d) The director may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the state or other public entity or Indian tribe.

(e) The state and other public entity and Indian tribe, including ~~any~~ *an* agent thereof, shall keep any work records as may be prescribed by the director for the proper administration of this division.

(f) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations apply to any matter arising pursuant to this section.

SEC. 506. Section 803 of the Unemployment Insurance Code is amended to read:

803. (a) As used in this section, "entity" means ~~any~~ *an* employing unit that is authorized by ~~any provision of~~ Article 4 (commencing with Section 701) or by Section 801 or 802 to elect a method of financing coverage permitted by this section.

(b) In lieu of the contributions required of employers, an entity may elect any one of the following:

(1) To pay into the Unemployment Fund the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on base period wages with respect to employment for the entity and charged to its account in the manner provided by Section 1026, pursuant to authorized regulations that shall prescribe the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions.

(2) Two or more entities may, pursuant to authorized regulations, file an application with the director for the establishment of a joint account for the purpose of determining the rate of contributions they shall pay into the Unemployment Fund to reimburse the fund for benefits paid with respect to employment for those entities. The members of the joint account may share the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on the base period wages with respect to employment for those members and charged to the joint account in the manner provided by Section 1026. The director shall prescribe authorized regulations for the establishment, maintenance, and dissolution of joint accounts, and for the rate or amount, time,

manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions by the members of joint accounts, on the cost of benefits charged in the manner provided by Section 1026.

(c) Sections 1030, 1031, 1032, and 1032.5, and any provision of this division for the noncharging of benefits to the account of an employer, ~~shall~~ *do* not apply to an election under subdivision (b). The cost of benefits charged to an entity under this section shall include, but not be limited to, benefits or payments improperly paid in excess of a weekly benefit amount, or in excess of a maximum benefit amount, or otherwise in excess of the amount that should have been paid, due to any computational or other error of any type by the Employment Development Department or the Department of Benefit Payments, whether or not the error could be anticipated.

(d) The cost of benefits charged to an entity under this section shall include credits of benefit overpayments actually collected by the department, unless the department determines that the payment was made because the entity, or an agent of the entity, was at fault for failing to respond timely or adequately to requests of the department for information relating to the individual claim for unemployment compensation benefits. The department shall make this determination when the entity or agent fails to respond timely or adequately in two instances relating to the individual claim for unemployment compensation benefits. This subdivision shall apply to benefit overpayments established on or after October 22, 2013.

(e) In making the payments prescribed by subdivision (b), there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, any sums he or she estimates the Unemployment Fund will be entitled to receive from each entity for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund. The estimates may be made upon the basis of statistical sampling, or any other method as may be determined by the director.

Upon making that determination, the director shall give notice of the determination, pursuant to Section 1206, to the entity. The director may cancel any contributions or portion thereof that he or she finds has been erroneously determined.

The director shall charge to any special fund, that is responsible for the salary of any employee of an entity, the amount determined by the director for which the fund is liable pursuant to this section. The contributions due from the entity shall be paid from the liable special fund, the General Fund, or other liable fund to the Unemployment Fund by the Controller or other officer or person responsible for disbursements on behalf of the entity within 30 days of the date of mailing of the director's notice of determination to the entity. The director for good cause may extend for not to exceed 60 days the time for paying without penalty the amount determined and required to be paid. Contributions are due upon the date of mailing of the notice of determination and are delinquent if not paid on or before the 30th day following the date of mailing of the notice.

(f) ~~Any~~ *An* entity that fails to pay the contributions required within the time required shall be liable for interest on the contributions at the adjusted annual rate and by the method established pursuant to Section 19521 of the Revenue and Taxation Code from and after the date of delinquency until paid, and ~~any~~ *an* entity that without good cause fails to pay ~~any~~ contributions required within the time required shall pay a penalty of 10 percent of the amount of the contributions. If the entity fails to pay the contributions required on or before the delinquency date, the director may assess the entity for the amount required by the notice of determination. This subdivision ~~shall~~ *does* not apply to employers electing financing under Section 821, for amounts due after December 31, 1992.

(g) Article 8 (commencing with Section 1126) of Chapter 4 of Part 1, with respect to the assessment of contributions, and Chapter 7 (commencing with Section 1701) of Part 1, with respect to the collection of contributions, ~~shall~~ apply to the assessments provided by this section. Sections 1177 to 1184, inclusive, relating to refunds and overpayments, ~~shall~~ apply to amounts paid to the Unemployment Fund pursuant to this section. Sections 1222, 1223, 1224, 1241, and 1242 ~~shall~~ apply to matters arising under this section.

(h) (1) The director may terminate the election of ~~any~~ *an* entity for financing under this section if the entity is delinquent in the payment of advances or reimbursements required by the director under this section. After ~~any~~ *a* termination, the entity may again

make an election pursuant to this section, but only if it is not delinquent in the payment of contributions and not delinquent in the payment of advances or reimbursements required by the director under this section.

(2) In the case of an Indian tribe (as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code), the director shall terminate all elections for the tribe and all subdivisions, subsidiaries, and business enterprises wholly owned by that tribe if the tribe or any subdivision, subsidiary, or business enterprise wholly owned by that tribe is more than 90 days delinquent in the payment of contributions, bonds, advances, reimbursements, or applicable penalties or interest required under this code, after notice to the tribe. After ~~any~~ *a* termination, the Indian tribe may again make an election pursuant to this section, but only if it is not delinquent in the payment of contributions, bonds, advances, reimbursements, or applicable penalties or interest required under this code.

(i) Notwithstanding any other provision of this section, ~~no~~ *an* entity shall *not* be liable for that portion of any extended duration benefits or federal-state extended benefits that is reimbursed or reimbursable by the federal government to the State of California.

(j) After the termination of ~~any~~ *an* election under this section, the entity shall remain liable for its proportionate share of the cost of benefits paid and charged to its account in the manner provided by Section 1026, which are based on wages paid for services during the period of the election. That liability may be charged against any remaining balance of a prior reserve account used by the entity pursuant to Section 712 or 713. Any portion of the remaining balance shall be included in the reserve account of the entity following ~~any~~ *a* termination of an election under this section which occurs prior to the expiration of a period of three consecutive years commencing with the effective date of the election. For purposes of Section 982, the period of an election under Section 803 shall, to the extent permitted by federal law, be included as a period during which a reserve account has been subject to benefit charges.

SEC. 507. Section 804 of the Unemployment Insurance Code is amended to read:

804. The director shall notify the United States Internal Revenue Service and the United States Department of Labor of the failure of any Indian tribe (as described by ~~subsection (u) of~~

Section 3306*(u)* of Title 26 of the United States Code) to make a payment or post a bond as required under subdivision (b) of Section 803 within 90 days of the delinquency date of a notice to the tribe specifying the amount due under that subdivision. If the amount due is subsequently paid by the Indian tribe, the director shall notify the United States Internal Revenue Service and the United States Department of Labor of the satisfaction of the liability.

SEC. 508. Section 1086 of the Unemployment Insurance Code is amended to read:

1086. (a) Each employing unit within 15 days after becoming an employer as defined in this part shall register with the department on a form prescribed by the department.

(b) (1) Notwithstanding subdivision (a), ~~any~~ *an* Indian tribe (as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code) that employed one or more workers on or after December 21, 2000, and prior to the operative date of the statute adding this subdivision at the 2001 portion of the 2001–02 Regular Session of the Legislature that has not registered with the department by the operative date of the statute, shall register with the department within 15 days of that operative date.

(2) The subject date for employers who register with the department under the provisions of paragraph (1) shall be December 21, 2000, or the date that employer first hired an employee, whichever is later.

SEC. 509. Section 1119 of the Unemployment Insurance Code is amended to read:

1119. The director shall notify the United States Internal Revenue Service and the United States Department of Labor of the failure of ~~any~~ *an* Indian tribe (as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code) to make a payment of ~~any~~ *an* amount required to be paid under this article within 90 days of the date of a notice specifying the amount due. If the amount due is subsequently paid by the Indian tribe, the director shall notify the United States Internal Revenue Service and the United States Department of Labor of the satisfaction of the liability.

SEC. 510. Section 1128.1 of the Unemployment Insurance Code is amended to read:

1128.1. (a) If the director finds that an individual or business entity has exchanged money on behalf of an employer and the

employer used the cash proceeds from the exchange to conceal the payment of wages with an intent to evade ~~any~~ *a* provision of this code, the director shall assess a penalty against the individual or business entity in an amount equal to 100 percent of any assessed contributions that were based on the concealed wages. An employing unit subject to a penalty under Section 1128 shall not be assessed a penalty under this section for the same violation.

(b) For purposes of this section, "business entity" means a partnership, corporation, association, limited liability company, or Indian tribe (as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code).

(c) The penalty ~~shall apply~~ *applies* only when there is evidence that the individual or business entity who exchanged money knew that the employer intended to use the cash proceeds from the exchange to conceal the payment of wages and thereby avoid the payment of contributions or taxes required by this code.

SEC. 511. Section 1141.1 of the Unemployment Insurance Code is amended to read:

1141.1. The director shall notify the United States Internal Revenue Service and the United States Department of Labor of the failure of ~~any~~ *an* Indian tribe (as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code) to pay within 90 days of the final date of an assessment any amounts assessed pursuant to the provisions of this article. If the assessment is subsequently paid by the Indian tribe, the director shall notify the United States Internal Revenue Service and the United States Department of Labor of the satisfaction of the liability.

SEC. 512. Section 1145 of the Unemployment Insurance Code is amended to read:

1145. (a) If the director finds that a person or business entity knowingly advises another person or business entity to violate any provision of this chapter, the director may assess the greater of:

(1) A penalty of five thousand dollars ($5,000).

(2) Ten percent of the combined amount of any resulting underreporting of contribution, penalties, or interest required by law.

(b) For purposes of this section, "business entity" means a partnership, corporation, association, limited liability company, or Indian tribe, as described in ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code, or any other legal entity.

SEC. 513. Section 1253.92 of the Unemployment Insurance Code is amended to read:

1253.92. (a) An unemployed individual who ~~is meeting~~ *meets* all of the requirements under this division, including Section 1253.9, and ~~is certifying~~ *certifies* for continued unemployment compensation benefits shall not be scheduled for a determination of eligibility for a week in which the individual commenced or is participating in a training or education program and has notified the department of the training or education program.

(b) If the department determines that the commencement of, or the ongoing participation in, a training or education program conflicts with the eligibility requirements for unemployment compensation under this division, the department may schedule and conduct a determination of eligibility.

SEC. 514. Section 1326.5 of the Unemployment Insurance Code is amended to read:

1326.5. An individual shall, to maintain his or her eligibility to file continued claims during a continuous period of unemployment, submit a continued claim not more than 14 days from the end of the last ~~week~~ *week's* ending date ~~showing~~ *shown* on the continued claim, or not more than 14 days from the date the department issued that continued claim, whichever is later, unless the department finds good cause for the individual's delay in submitting the continued claim. An unemployed individual may not be disqualified for unemployment compensation benefits solely on the basis that the continued claim was submitted 15 to 21 days, inclusive, from the end of the last ~~week~~ *week's* ending date ~~showing~~ *shown* on the continued claim, or 15 to 21 days inclusive, from the date the department issued that continued claim, whichever is later.

SEC. 515. Section 1735.1 of the Unemployment Insurance Code is amended to read:

1735.1. (a) An individual who has been assessed under the provisions of Section 1128.1, or ~~any~~ *an* officer, major stockholder, or other person having charge of the affairs of a business entity that has been assessed under the provisions of that section, shall be personally liable for the amount of contributions, withholdings, penalties, and interest due and unpaid by the employer, other than those under subdivisions (a) and (b) of Section 1128, for whom money was exchanged as described in Section 1128.1. The director

may assess that person for the amount of contributions, withholdings, all penalties other than those under Section 1128, and interest. The provisions of Article 8 (commencing with Section 1126) and Article 9 (commencing with Section 1176) of Chapter ~~4 of Part 1 shall~~ apply to assessments made pursuant to this section. Sections 1221, 1222, 1223, and 1224 ~~shall~~ apply to assessments made pursuant to this section. With respect to that person, the director shall have all the collection remedies set forth in this chapter.

(b) For purposes of this section, "business entity" means a partnership, corporation, association, limited liability company, or Indian tribe (as described by ~~subsection (u) of~~ Section 3306*(u)* of Title 26 of the United States Code).

SEC. 516. Section 3655 of the Unemployment Insurance Code, as amended by Section 17 of Chapter 399 of the Statutes of 2014, is amended to read:

3655. (a) The Employment Development Department shall consider the facts submitted by an employer pursuant to Section 3654 and, if benefits are claimed subsequent to the filing of the extended duration benefits claim, make a determination as to the exhaustee's eligibility for the extended duration benefits. The Employment Development Department shall promptly notify the exhaustee and any employer who prior to the determination has submitted any facts pursuant to Section 3654 of the determination and the reasons therefor. The exhaustee and ~~this~~ *the* employer may appeal therefrom to an administrative law judge within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The Director of Employment Development shall be an interested party to any appeal.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed.

SEC. 517. Section 3655 of the Unemployment Insurance Code, as added by Section 18 of Chapter 399 of the Statutes of 2014, is amended to read:

3655. (a) The Employment Development Department shall consider the facts submitted by an employer pursuant to Section 3654 and, if benefits are claimed subsequent to the filing of the

extended duration benefits claim, make a determination as to the exhaustee's eligibility for the extended duration benefits. The Employment Development Department shall promptly notify the exhaustee and any employer who prior to the determination has submitted any facts pursuant to Section 3654 of the determination and the reasons therefor. The exhaustee and ~~this~~ *the* employer may appeal therefrom to an administrative law judge within 30 days from mailing or personal service of notice of the determination. The 30-day period may be extended for good cause. The Director of Employment Development shall be an interested party to any appeal.

(b) "Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

(c) This section shall take effect on July 1, 2015.

SEC. 518. Section 14013 of the Unemployment Insurance Code is amended to read:

14013. The board shall assist the Governor in the following:

(a) Promoting the development of a well-educated and highly skilled 21st century workforce.

(b) Developing the State Workforce Investment Plan.

(c) Developing guidelines for the continuous improvement and operation of the workforce investment system, including:

(1) Developing policies to guide the one-stop system.

(2) Providing technical assistance for the continuous improvement of the one-stop system.

(3) Recommending state investments in the one-stop system.

(4) Targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both. These industry sectors and clusters shall have significant economic impacts on the state and its regional and workforce development needs and have documented career opportunities.

(5) To the extent permissible under state and federal laws, recommending youth policies and strategies that support linkages between kindergarten and grades 1 to 12, inclusive, and community college educational systems and youth training opportunities in order to help youth secure educational and career advancement. These policies and strategies may be implemented using a sector strategies framework and should ultimately lead to placement in a job providing economic security or job placement in an

entry-level job that has a well-articulated career pathway or career ladder to a job providing economic security.

(6) To the extent permissible under state and federal law, recommending adult and dislocated worker training policies and investments that offer a variety of career opportunities while upgrading the skills of California's workforce. These may include training policies and investments pertaining to any of the following:

(A) Occupational skills training, including training for nontraditional employment.

(B) On-the-job training.

(C) Programs that combine workplace training with related instruction, which may include cooperative education programs.

(D) Training programs operated by the private sector.

(E) Skill upgrading and retraining.

(F) Entrepreneurial training.

(G) Job readiness training.

(H) Adult education and literacy activities provided in combination with any of the services described in this paragraph.

(I) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(d) Developing and continuously improving the statewide workforce investment system as delivered via the one-stop delivery system and via other programs and services supported by funding from the federal Workforce Investment Act of 1998, including:

(1) Developing linkages in order to ensure coordination and nonduplication among workforce programs and activities.

(2) Reviewing local workforce investment plans.

(3) Leveraging state and federal funds to ensure that resources are invested in activities that meet the needs of the state's competitive and emerging industry sectors and advance the education and employment needs of students and workers so they can keep pace with the education and skill needs of the state, its regional economies, and leading industry sectors.

(e) Commenting, at least once annually, on the measures taken pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (Public Law 101-392; 20 U.S.C. Sec. 2301 et seq.).

(f) Designating local workforce investment areas within the state based on information derived from all of the following:

(1) Consultations with the Governor.

(2) Consultations with the chief local elected officials.

(3) Consideration of comments received through the public comment process, as described in Section 112(b)(9) of the federal Workforce Investment Act of 1998 *(Public Law 105-220)*.

(g) Developing and modifying allocation formulas, as necessary, for the distribution of funds for adult employment and training activities, for youth activities to local workforce investment areas, and dislocated worker employment and training activities, as permitted by federal law.

(h) Coordinating the development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state.

(i) Preparing the annual report to the United States Secretary of Labor.

(j) Recommending policy for the development of the statewide employment statistics system, including workforce and economic data, as described in Section 49l-2 of Title 29 of the United States Code, and using, to the fullest extent possible, the Employment Development Department's existing labor market information systems.

(k) Recommending strategies to the Governor for strategic training investments of the Governor's 15-percent discretionary funds.

(*l*) Developing and recommending waivers, in conjunction with local workforce investment boards, to the Governor as provided for in the federal Workforce Investment Act of 1998.

(m) Recommending policy to the Governor for the use of the 25-percent rapid response funds, as authorized under the federal Workforce Investment Act of 1998.

(n) Developing an application to the United States Department of Labor for an incentive grant under Section 9273 of Title 20 of the United States Code.

(o) (1) Developing a workforce metrics dashboard, to be updated annually, that measures the state's human capital investments in workforce development to better understand the collective impact of these investments on the labor market. The workforce metrics dashboard shall be produced using existing available data and resources that are currently collected and

accessible to state agencies. The board shall convene workforce program partners to develop a standardized set of inputs and outputs for the workforce metrics dashboard. The workforce metrics dashboard shall do all of the following:

(A) Provide a status report on credential attainment, training completion, degree attainment, and participant earnings from workforce education and training programs. The board shall publish and distribute the final report.

(B) Provide demographic breakdowns, including, to the extent possible, race, ethnicity, age, gender, veteran status, wage and credential or degree outcomes, and information on workforce outcomes in different industry sectors.

(C) Measure, at a minimum and to the extent feasible with existing resources, the performance of the following workforce programs: community college career technical education, the Employment Training Panel, Title I and Title II of the federal Workforce Investment Act of 1998, Trade Adjustment Assistance, and state apprenticeship programs.

(D) Measure participant earnings in California, and to the extent feasible, in other states. The Employment Development Department shall assist the board by calculating aggregated participant earnings using unemployment insurance wage records, without violating any applicable confidentiality requirements.

(2) The State Department of Education is hereby authorized to collect the social security numbers of adults participating in adult education programs so that accurate participation in those programs can be represented in the report card. However, an individual shall not be denied program participation if he or she refuses to provide a social security number. The State Department of Education shall keep this information confidential and shall only use this information for tracking purposes, in compliance with all applicable state and federal law.

(3) (A) Participating workforce programs, as specified in ~~clause~~ subparagraph (C) of paragraph (1), shall provide participant data in a standardized format to the Employment Development Department.

(B) The Employment Development Department shall aggregate data provided by participating workforce programs and shall report the data, organized by demographics, earnings, and industry of

employment, to the board to assist the board in producing the annual workforce metrics dashboard.

SEC. 519. Section 241 of the Vehicle Code, as added by Section 4 of Chapter 740 of the Statutes of 2012, is repealed.

~~241. A "buy-here-pay-here" dealer is a dealer, as defined in Section 285, who is not otherwise expressly excluded by Section 241.1, and who does all of the following:~~

~~(a) Enters into conditional sale contracts, within the meaning of subdivision (a) of Section 2981 of the Civil Code, and subject to the provisions of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, or lease contracts, within the meaning of Section 2985.7 of the Civil Code, and subject to the provisions of Chapter 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of the Civil Code.~~

~~(b) Assigns less than 90 percent of all unrescinded conditional sale contracts and lease contracts to unaffiliated third-party finance or leasing sources within 45 days of the consummation of those contracts.~~

~~(c) For purposes of this section, a conditional sale contract does not include a contract for the sale of a motor vehicle if all amounts owed under the contract are paid in full within 30 days.~~

~~(d) The department may promulgate regulations as necessary to implement this section.~~

SEC. 520. Section 241.1 of the Vehicle Code, as added by Section 5 of Chapter 740 of the Statutes of 2012, is repealed.

~~241.1. The term "buy-here-pay-here" dealer does not include any of the following:~~

~~(a) A lessor who primarily leases vehicles that are two model years old or newer.~~

~~(b) A dealer that does both of the following:~~

~~(1) Certifies 100 percent of used vehicle inventory offered for sale at retail price pursuant to Section 11713.18.~~

~~(2) Maintains an onsite service and repair facility that is licensed by the Bureau of Automotive Repair and employs a minimum of five master automobile technicians that are certified by the National Institute for Automotive Service Excellence.~~

SEC. 521. Section 612 of the Vehicle Code, as added by Chapter 1305 of the Statutes of 1986, is repealed.

~~612. "Tour bus" means a bus designed for carrying more than 16 passengers and the driver which is operated by or for a charter-party carrier of passengers, as defined in Section 5360 of the Public Utilities Code.~~

SEC. 522. Section 612 of the Vehicle Code, as amended by Section 8 of Chapter 1216 of the Statutes of 1989, is amended to read:

612. "Tour bus" means a bus, which is operated by or for a charter-party carrier of passengers, as defined in Section 5360 of the Public Utilities Code, or a passenger stage corporation, as defined in Section 226 of the Public Utilities ~~Code, or any highway carrier of passengers required to register with the California Public Utilities Commission pursuant to Section 3910 of the Public Utilities~~ Code.

SEC. 523. Section 1803.5 of the Vehicle Code, as added by Chapter 216 of the Statutes of 2010, is repealed.

~~1803.5. (a) In accordance with Section 41501 or 42005, the clerk of a court or hearing officer, when a person who receives a notice to appear at a court or board proceeding for a violation of any statute relating to the safe operation of vehicles is granted a continuance of the proceeding in consideration for completion of a program at a school for traffic violators, that results in a designation of the conviction as confidential in consideration for that completion, shall prepare an abstract of the record of the court or board proceeding that indicates that the person was convicted of the violation and ordered to complete a traffic violator program, certify the abstract to be true and correct, and cause the abstract to be forwarded to the department at its office at Sacramento within five days after receiving proof that the program was completed or the due date to which the proceeding was continued, whichever comes first.~~

~~(b) This section shall become operative on July 1, 2011.~~

SEC. 524. Section 1808.7 of the Vehicle Code, as added by Chapter 216 of the Statutes of 2010, is repealed.

~~1808.7. (a) The record of the department relating to the first proceeding and conviction under Section 1803.5 in any 18-month period for completion of a traffic violator school program is confidential, shall not be disclosed to any person, except a court and as provided for in subdivision (b), and shall be used only for statistical purposes by the department. No violation point count~~

~~shall be assessed pursuant to Section 12810 if the conviction is confidential.~~

~~(b) The record of a conviction described in subdivision (a) shall not be confidential if any of the following circumstances applies:~~

~~(1) The person convicted holds a commercial driver's license as defined by Section 15210.~~

~~(2) The person convicted holds a commercial driver's license in another state, in accordance with Part 383 of Title 49 of the Code of Federal Regulations.~~

~~(3) The violation occurred in a commercial motor vehicle, as defined in subdivision (b) of Section 15210.~~

~~(4) The conviction would result in a violation point count of more than one point pursuant to Section 12810.~~

~~(c) This section shall become operative on July 1, 2011.~~

SEC. 525. Section 2480 of the Vehicle Code is amended to read:

2480. (a) A peace officer may remove a vehicle, within the territorial limits in which the officer may act, if the vehicle is involved in the theft or movement of stolen inedible kitchen grease. If a peace officer removes a vehicle pursuant to this subdivision, the officer may, after citing or arresting the responsible person, seize the vehicle, which may be impounded for up to 15 days.

(b) The registered and legal owner of a vehicle removed and seized pursuant to subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.

(c) (1) Notwithstanding Chapter 10 (commencing with Section 22650) *of Division 11* or any other law, an impounding agency shall release a motor vehicle to the registered owner or his or her agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the vehicle is a stolen vehicle and reported as stolen in accordance with then existing state and local law.

(B) If the legal owner or registered owner of the vehicle is a rental car agency.

(C) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A vehicle shall be released pursuant to this subdivision only if the registered owner or his or her agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(d) A vehicle seized and removed pursuant to subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the 15th day of impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. No lien sale processing fees shall be charged to a legal owner who redeems the vehicle on or before the seventh day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(e) (1) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 incurred by the rental car agency in connection with obtaining possession of the vehicle.

(3) The owner is not liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(4) The vehicle ~~may~~ *shall* not be sold prior to the defendant's conviction.

SEC. 526. Section 2501 of the Vehicle Code, as added by Section 6 of Chapter 860 of the Statutes of 1981, is repealed.

~~2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned and operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of explosives. The licenses shall be issued in accordance with the provisions of this chapter and regulations~~

~~adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.~~

~~This section shall become operative January 1, 1988.~~

SEC. 527. Section 2501 of the Vehicle Code, as amended by Section 2 of Chapter 294 of the Statutes of 1982, is amended to read:

2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned or operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of hazardous material, including the transportation of explosives. ~~Such~~ *The* licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. ~~In no case shall a~~ *A* license *shall not* be renewed ~~where~~ *when* the application is received more than 30 days after the date of expiration.

SEC. 528. Section 5156.7 of the Vehicle Code is amended to read:

5156.7. (a) The State Department of Health Care Services shall apply to the department, pursuant to Section 5156, to sponsor a breast cancer awareness license plate program. The department shall issue specialized license plates for that program if the State

Department of Health Care Services complies with the requirements of Section 5156.

(b) The State Department of Health Care Services may accept and use donated artwork from California artists for the license plate.

(c) Notwithstanding subdivision (c) of Section 5157, the additional fees prescribed by Section 5157 for the issuance, renewal, or transfer of the specialized license plates shall be deposited, after the department deducts its administrative costs, in the Breast Cancer Control Account in the Breast Cancer Fund established pursuant to Section 30461.6 of the Revenue and Taxation Code.

(d) It is the intent of the Legislature that the department, in consultation with the State Department of Health Care Services, will design and make available for issuance pursuant to this article special breast cancer awareness license plates. Specifically, it is the intent of the Legislature that the license plates issued pursuant to this section ~~shall~~ consist of a pink breast cancer awareness ribbon to the left of the numerical series and a breast cancer awareness message, such as, "Early Detection Saves Lives," below the numerical series.

SEC. 529. Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code, as added by Section 7 of Chapter 1247 of the Statutes of 1994, is repealed.

SEC. 530. Section 12801 of the Vehicle Code, as amended by Section 6 of Chapter 27 of the Statutes of 2014, is amended to read:

12801. (a) Except as provided in subdivisions (b) and (c) and Section 12801.9, the department shall require an application for a driver's license to contain the applicant's social security account number and any other number or identifier determined to be appropriate by the department.

(b) An applicant who provides satisfactory proof that his or her presence in the United States is authorized under federal law, but who is not eligible for a social security account number, is eligible to receive an original driver's license if he or she meets all other qualifications for licensure.

(c) (1) An applicant applying for a driver's license under Section 12801.9, who has never been issued a social security account number and is not presently eligible for a social security

account number, shall satisfy the requirements of this section if he or she indicates in the application described in Section 12800, in the manner prescribed by the department, that he or she has never been issued a social security account number and is not presently eligible for a social security account number.

(2) This subdivision ~~shall~~ *does* not apply to applications for a commercial driver's license. The department shall require all applications for a commercial driver's license to include the applicant's social security account number.

(3) ~~Nothing in this~~ *This* section shall *not* be used to consider an individual's citizenship or immigration status as a basis for a criminal investigation, arrest, or detention.

(d) The department shall not complete an application for a driver's license unless the applicant is in compliance with the requirements of subdivision (a), (b), or (c).

(e) Notwithstanding any other law, the social security account number collected on a driver's license application shall not be displayed on the driver's license, including, but not limited to, inclusion on a magnetic tape or strip used to store data on the license.

(f) This section shall become operative on January 1, 2015, or on the date that the director executes a declaration pursuant to Section 12801.11, whichever is sooner.

(g) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 531. Section 12801.9 of the Vehicle Code is amended to read:

12801.9. (a) Notwithstanding Section 12801.5, the department shall issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency.

(b) The department shall adopt emergency regulations to carry out the purposes of this section, including, but not limited to, procedures for (1) identifying documents acceptable for the

purposes of proving identity and California residency, (2) procedures for verifying the authenticity of the documents, (3) issuance of a temporary license pending verification of any document's authenticity, and (4) hearings to appeal a denial of a license or temporary license.

(c) Emergency regulations adopted for purposes of establishing the documents acceptable to prove identity and residency pursuant to subdivision (b) shall be promulgated by the department in consultation with appropriate interested parties, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including law enforcement representatives, immigrant rights representatives, labor representatives, and other stakeholders, which may include, but are not limited to, the *Department of the* California Highway Patrol, the California State Sheriffs' Association, and the California Police Chiefs Association. The department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

(1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship.

(2) An original birth certificate, or other proof of age, as designated by the department.

(3) A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

(4) The following documents, which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:

(A) A marriage license or divorce certificate.

(B) A foreign federal electoral photo card issued on or after January 1, 1991.

(C) A foreign driver's license.

(5) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal.

(6) An official school or college transcript that includes the applicant's date of birth, or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued.

(7) A United States Department of Homeland Security Form I-20 or Form DS-2019.

(8) A deed or title to real property.

(9) A property tax bill or statement issued within the previous 12 months.

(10) An income tax return.

(d) (1) A license issued pursuant to this section, including a temporary license issued pursuant to Section 12506, shall include a recognizable feature on the front of the card, such as the letters "DP" instead of, and in the same font size as, the letters "DL," with no other distinguishable feature.

(2) The license shall bear the following notice: "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

(3) The notice described in paragraph (2) shall be in lieu of the notice provided in Section 12800.5.

(e) If the United States Department of Homeland Security determines a license issued pursuant to this section does not satisfy the requirements of Section 37.71 of Title 6 of the Code of Federal Regulations, adopted pursuant to paragraph (11) of subdivision (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13), the department shall modify the license only to the extent necessary to satisfy the requirements of that section.

(f) Notwithstanding Section 40300 or any other law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under 16 years of age.

(g) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(h) It ~~shall be~~ *is* a violation of law to discriminate against a person because he or she holds or presents a license issued under this section, including, but not limited to, the following:

(1) It is a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code), for a business establishment to discriminate against a person because he or she holds or presents a license issued under this section.

(2) (A) It is a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) for an employer or other covered person or entity, pursuant to Section 12940 of the Government Code and subdivision (v) of Section 12926 of the Government Code, to discriminate against a person because the person holds or presents a driver's license issued pursuant to this section, or for an employer or other covered entity to require a person to present a driver's license, unless possessing a driver's license is required by law or is required by the employer and the employer's requirement is otherwise permitted by law. ~~Nothing in this~~ *This* section shall *not* be construed to limit or expand an employer's authority to require a person to possess a driver's license.

(B) Notwithstanding subparagraph (A), ~~nothing in~~ this section shall *not* be construed to alter an employer's rights or obligations under Section 1324a of Title 8 of the United States Code regarding obtaining documentation evidencing identity and authorization for employment. An action taken by an employer that is required by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a) is not a violation of law.

(3) It is a violation of Section 11135 of the Government Code for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because he or she holds or presents a license issued pursuant to this section.

(i) Driver's license information obtained by an employer shall be treated as private and confidential, is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall not be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive.

(j) Information collected pursuant to this section is not a public record and shall not be disclosed by the department, except as required by law.

(k) A license issued pursuant to this section shall not be used to consider an individual's citizenship or immigration ~~status,~~ *status* as a basis for an investigation, arrest, citation, or detention.

(*l*) On or before January 1, 2018, the California Research Bureau shall compile and submit to the Legislature and the Governor a report of any violations of subdivisions (h) and (k). Information pertaining to any specific individual shall not be provided in the report.

(m) In addition to the fees required by Section 14900, a person applying for an original license pursuant to this section may be required to pay an additional fee determined by the department that is sufficient to offset the reasonable administrative costs of implementing the provisions of the act that added this section. If this additional fee is assessed, it shall only apply until June 30, 2017.

(n) This section shall become operative on January 1, 2015, or on the date that the director executes a declaration pursuant to Section 12801.11, whichever is sooner.

(o) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 532. The heading of Article 1.7 (commencing with Section 23145) of Chapter 12 of Division 11 of the Vehicle Code is repealed.

~~Article 1.7. Youthful Drunk Driver Visitation Program~~

SEC. 533. Section 15210 of the Vehicle Code is amended to read:

15210. Notwithstanding any other provision of this code, as used in this chapter, the following terms have the following meanings:

(a) "Commercial driver's license" means a driver's license issued by a state or other jurisdiction, in accordance with the standards contained in Part 383 of Title 49 of the Code of Federal Regulations, which authorizes the licenseholder to operate a class or type of commercial motor vehicle.

(b) (1) "Commercial motor vehicle" means any vehicle or combination of vehicles that requires a class A or class B license,

or a class C license with an endorsement issued pursuant to paragraph (2), (3), (4), or (5) of subdivision (a) of Section 15278.

(2) "Commercial motor vehicle" does not include any of the following:

(A) A recreational vehicle, as defined in Section 18010 of the Health and Safety Code.

(B) An implement of husbandry operated by a person who is not required to obtain a driver's license under this code.

(C) Vehicles operated by persons exempted pursuant to Section 25163 of the Health and Safety Code or a vehicle operated in an emergency situation at the direction of a peace officer pursuant to Section 2800.

(c) "Controlled substance" has the same meaning as defined by the federal Controlled Substances Act (21 U.S.C. Sec. 802).

(d) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(e) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(f) "Driving a commercial vehicle under the influence" means committing any one or more of the following unlawful acts in a commercial motor vehicle:

(1) Driving a commercial motor vehicle while the operator's blood-alcohol concentration level is 0.04 percent or more, by weight in violation of subdivision (d) of Section 23152.

(2) Driving under the influence of alcohol, as prescribed in subdivision (a) or (b) of Section 23152.

(3) Refusal to undergo testing as required under this code in the enforcement of Subpart D of Part 383 or Subpart A of Part 392 of Title 49 of the Code of Federal Regulations.

(g) "Employer" means any person, including the United States, a state, or political subdivision of a state, who owns or leases a commercial motor vehicle or assigns drivers to operate that vehicle. A person who employs himself or herself as a commercial vehicle

driver is considered to be both an employer and a driver for purposes of this chapter.

(h) "Fatality" means the death of a person as a result of a motor vehicle accident.

(i) "Felony" means an offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(j) "Gross combination weight rating" means the value specified by the manufacturer as the maximum loaded weight of a combination or articulated vehicle. In the absence of a value specified by the manufacturer, gross vehicle weight rating ~~will~~ *shall* be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed units and any load thereon.

(k) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle, as defined in Section 350.

(*l*) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur before the ~~reasonable~~ *reasonably* foreseeable completion date of a formal proceeding *has* begun to lessen the risk of death, illness, injury, or endangerment.

(m) "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles that is not included within the definition in subdivision (b).

(n) "Nonresident commercial driver's license" means a commercial driver's license issued to an individual by a state under one of the following provisions:

(1) The individual is domiciled in a foreign country.

(2) The individual is domiciled in another state.

(o) "Schoolbus" is a commercial motor vehicle, as defined in Section 545.

(p) "Serious traffic violation" includes any of the following:

(1) Excessive speeding, as defined pursuant to the federal Commercial Motor Vehicle Safety Act (P.L. 99-570) involving any single offense for any speed of 15 miles an hour or more above the posted speed limit.

(2) Reckless driving, as defined pursuant to the federal Commercial Motor Vehicle Safety Act (P.L. 99-570), and driving

in the manner described under Section 2800.1, 2800.2, or 2800.3, including, but not limited to, the offense of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property.

(3) A violation of a state or local law involving the safe operation of a motor vehicle, arising in connection with a fatal traffic accident.

(4) A similar violation of a state or local law involving the safe operation of a motor vehicle, as defined pursuant to the Commercial Motor Vehicle Safety Act (Title XII of P.L. 99-570).

(5) Driving a commercial motor vehicle without a commercial driver's license.

(6) Driving a commercial motor vehicle without the driver having in his or her possession a commercial driver's license, unless the driver provides proof at the subsequent court appearance that he or she held a valid commercial driver's license on the date of the violation.

(7) Driving a commercial motor vehicle when the driver has not met the minimum testing standards for that vehicle as to the class or type of cargo the vehicle is carrying.

(8) Driving a commercial motor vehicle while using an electronic wireless communication device to write, send, or read a text-based communication, as defined in Section 23123.5.

In the absence of a federal definition, existing definitions under this code ~~shall~~ apply.

(q) "State" means a state of the United States or the District of Columbia.

(r) "Tank vehicle" means a commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of at least 1,000 gallons that is permanently or temporarily attached to the vehicle or the chassis, including, but not limited to, cargo tanks and portable tanks, as defined in Part 171 of Title 49 of the Code of Federal Regulations. A commercial motor vehicle transporting an empty storage container tank not designed for transportation, with a rated capacity of at least 1,000 gallons that is temporarily attached to a flatbed trailer, is not a tank vehicle.

SEC. 534. Section 34500 of the Vehicle Code is amended to read:

34500. The department shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.

(b) Truck tractors.

(c) Buses, schoolbuses, school pupil activity buses, youth buses, farm labor vehicles, modified limousines, and general public paratransit vehicles.

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b), (c), or (d). This subdivision does not include camp trailers, trailer coaches, and utility trailers.

(f) A combination of a motortruck and a vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) ~~Any~~ *A* vehicle, or a combination of vehicles, transporting hazardous materials.

(h) Manufactured homes that, when moved upon the highway, are required to be moved pursuant to a permit as specified in Section 35780 or 35790.

(i) A park trailer, as described in Section 18009.3 of the Health and Safety Code, that, when moved upon a highway, is required to be moved pursuant to a permit pursuant to Section 35780.

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Department of Motor Vehicles, Public Utilities Commission, or United States Secretary ~~of the Department~~ of Transportation, but only for matters relating to hours of service and logbooks of drivers.

(k) A commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or a commercial motor vehicle of any gross vehicle weight rating towing a vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000 pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For purposes of this subdivision, the term “commercial motor vehicle” has the meaning defined in subdivision (b) of Section 15210.

SEC. 535. Section 35401.7 of the Vehicle Code is amended to read:

35401.7. (a) The limitations of access specified in subdivision (d) of Section 35401.5 do not apply to licensed carriers of livestock when those carriers are directly en route to or from a point of loading or unloading of livestock on those portions of State Highway Route 101 located in the Counties of Del Norte, Humboldt, and Mendocino from its junction with State Highway Route 1 near Leggett north to the Oregon border, if the travel is necessary and incidental to the shipment of the livestock.

(b) The exemption allowed under this section does not apply unless all of the following conditions are met:

(1) The length of the truck tractor, in combination with the semitrailer used to transport the livestock, does not exceed a total of 70 feet.

(2) The distance from the kingpin to the rearmost axle of the semitrailer does not exceed 43 feet.

(3) The length of the semitrailer does not exceed a total of 48 feet.

(c) The exemption allowed under this section does not apply to travel conducted on the day prior to, or on the day of, any federally recognized holiday.

(d) (1) Because route improvements in Richardson Grove that will allow the combination of vehicles described in Section 35401.5 to fully operate on all portions of State Highway Route 101 located in the Counties of Del Norte, Humboldt, and Mendocino are ongoing and not yet completed, this section shall remain in effect only until both of the following conditions are satisfied:

(A) All route improvements in Richardson Grove are completed without restraint, including, but not limited to, judicial or injunctive restraints.

(B) The Director of Transportation determines that the combination of vehicles described in Section 35401.5 is authorized to operate on all portions of State Highway Route 101 located in the Counties of Del Norte, Humboldt, and Mendocino. When the director makes the determination described in this subparagraph, the director shall post a declaration on the Internet Web site of the Department of Transportation.

(2) This section is repealed as of the date that the declaration described in subparagraph (B) of paragraph (1) is posted on the Department of Transportation's Internet Web site.

(3) The declaration described in subparagraph (B) of paragraph (1) shall state that it is being made pursuant to this section.

(e) (1) If, prior to the completion of the route improvements in Richardson Grove as described in paragraph (1) of subdivision (d), the Director of Transportation determines that the only adjustment to State Highway Route 101 possible to accommodate the truck sizes allowed to travel on portions of State Highway Route 101, pursuant to subdivisions (a) and (b), is the removal of any tree that has a diameter of 42 inches or greater, measured outside the bark, at 12 inches above ground on the side adjacent to the highest ground level, the director shall notify the Secretary of State of that determination.

(2) If, prior to the completion of the route improvements in Richardson Grove as described in paragraph (1) of subdivision (d), the Director of Transportation determines that safety improvements to the portion of State Highway Route 101 described in subdivision (a) have resulted in the reclassification of the entire segment as a terminal access route pursuant to subdivision (d) of Section 35401.5, the director shall notify the Secretary of State of that determination.

(3) The notice required under paragraph (1) or (2) shall state that it is being made pursuant to this section.

(4) This section is repealed on the date the Secretary of State receives either of the notices described in this subdivision.

SEC. 536. Section 40303.5 of the Vehicle Code is amended to read:

40303.5. Whenever ~~any~~ *a* person is arrested for any of the following offenses, the arresting officer shall permit the arrested person to execute a notice containing a promise to correct the violation in accordance with the provisions of Section 40610 unless the arresting officer finds that any of the disqualifying conditions specified in subdivision (b) of Section 40610 exist:

(a) ~~Any~~ *A* registration infraction set forth in Division 3 (commencing with Section 4000).

(b) ~~Any~~ *A* driver's license infraction set forth in Division 6 (commencing with Section 12500), and subdivision (a) of Section 12951, relating to possession of *a* driver's license.

(c) Section 21201, relating to bicycle equipment.

(d) ~~Any~~ *An* infraction involving equipment set forth in Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14.8 (commencing with Section 34500), Division 16 (commencing with Section 36000), Division 16.5 (commencing with Section 38000), and Division 16.7 (commencing with Section 39000).

(e) Section 2482, relating to registration decals for vehicles transporting inedible kitchen grease.

SEC. 537. Section 42002.1 of the Vehicle Code, as added by Section 4 of Chapter 899 of the Statutes of 2006, is repealed.

~~42002.1. A person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person, is punishable as follows:~~

~~(a) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.~~

~~(b) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.~~

~~(c) For a third or a subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.~~

SEC. 538. Section 42002.1 of the Vehicle Code, as added by Section 4 of Chapter 900 of the Statutes of 2006, is repealed.

~~42002.1. A person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person, shall be punished as follows:~~

~~(a) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.~~

~~(b) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.~~

~~(c) For a third or a subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or~~

~~imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.~~

SEC. 539. Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of the Water Code, as added by Section 15 of Chapter 365 of the Statutes of 2007, is repealed.

SEC. 540. Section 8612 of the Water Code, as added by Section 22 of Chapter 366 of the Statutes of 2007, is repealed.

~~8612. (a) On or before December 31, 2008, the department shall prepare, and the board shall adopt, a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage.~~

~~(b) The department shall update the schedule annually and shall present the updated schedule to the board for adoption on or before December 31 of each year. The update shall include the status of mapping in progress and an estimated time of completion. The schedule shall be based on the present and expected future risk of flooding and associated consequences.~~

SEC. 541. Section 8613 of the Water Code, as added by Section 23 of Chapter 366 of the Statutes of 2007, is repealed.

~~8613. (a) The board or the department may establish a program of mitigation banking for the activities of the board or the department under this part and for the benefit of local districts in the discharge of their flood control responsibilities under this part and the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6).~~

~~(b) For the purposes of carrying out subdivision (a), the board or the department, in consultation with all appropriate state, local, and federal agencies with jurisdiction over environmental protection that are authorized to regulate and impose requirements upon the flood control work performed under this part or the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6), may establish a system of mitigation banking by which mitigation credits may be acquired in advance for flood control work to be performed by the board, the department, or a local agency authorized to operate and maintain facilities of the State Plan of Flood Control.~~

SEC. 542. Part 8 (commencing with Section 9650) of Division 5 of the Water Code, as added by Section 27 of Chapter 366 of the Statutes of 2007, is repealed.

SEC. 543. Section 9650 of the Water Code, as added by Section 8 of Chapter 368 of the Statutes of 2007, is amended to read:

9650. (a) (1) Commencing July 1, 2008, the allocation or expenditure of funds by the state for the upgrade of a project levee, if that upgrade is authorized on or after July 1, 2008, that protects an area in which more than 1,000 people reside shall be subject to a requirement that the local agency responsible for the operation and maintenance of the project levee and any city or county protected by the project levee, including a charter city or charter county, enter into an agreement to adopt a safety plan within two years. If a city or county is responsible for the operation and maintenance of the project levee, the governing body shall approve a resolution committing to the preparation of a safety plan within two years.

(2) The local entity responsible for the operation and maintenance of the project levee shall submit a copy of the safety plan to the department and the ~~Reclamation Board.~~ *Central Valley Flood Protection Board.*

(b) The safety plan, at a minimum, shall include all of the following elements:

(1) A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.

(2) A levee patrol plan for high water situations.

(3) A flood-fight plan for the period before state or federal agencies assume control over the flood fight.

(4) An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.

(5) A floodwater removal plan.

(6) A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:

(A) The building is located outside an area that may be flooded.

(B) The building is designed to be operable shortly after the floodwater is removed.

(c) The safety plan shall be integrated into any other local agency emergency plan and shall be coordinated with the state emergency plan.

(d) This section does not require the adoption of an element of the safety plan that was adopted previously and remains in effect.

SEC. 544. Section 10725.8 of the Water Code is amended to read:

10725.8. (a) A groundwater sustainability agency may require through its groundwater sustainability plan that the use of every groundwater extraction facility within the management area of the groundwater sustainability agency be measured by a water-measuring device satisfactory to the groundwater sustainability agency.

(b) All costs associated with the purchase and installation of the water-measuring device shall be borne by the owner or operator of each groundwater extraction facility. The ~~water measuring~~ *water-measuring* devices shall be installed by the groundwater sustainability agency or, at the groundwater sustainability agency's option, by the owner or operator of the groundwater extraction facility. Water-measuring devices shall be calibrated on a reasonable schedule as may be determined by the groundwater sustainability agency.

(c) A groundwater sustainability agency may require, through its groundwater sustainability plan, that the owner or operator of a groundwater extraction facility within the groundwater sustainability agency file an annual statement with the groundwater sustainability agency setting forth the total extraction in acre-feet of groundwater from the facility during the previous water year.

(d) In addition to the measurement of groundwater extractions pursuant to subdivision (a), a groundwater sustainability agency may use any other reasonable method to determine groundwater extraction.

(e) This section does not apply to de minimis extractors.

SEC. 545. Section 10735.2 of the Water Code is amended to read:

10735.2. (a) The board, after notice and a public hearing, may designate a basin as a probationary basin, if the board finds one or more of the following applies to the basin:

(1) After June 30, 2017, none of the following have occurred:

(A) A local agency has elected to be a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has formed a groundwater sustainability agency or prepared agreements to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire basin.

(C) A local agency has submitted an alternative that has been approved or is pending approval pursuant to Section 10733.6. If the department disapproves an alternative pursuant to Section 10733.6, the board shall not act under this paragraph until at least 180 days after the department disapproved the alternative.

(2) The basin is subject to paragraph (1) of subdivision (a) of Section 10720.7, and after January 31, 2020, none of the following have occurred:

(A) A groundwater sustainability agency has adopted a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has adopted groundwater sustainability plans that collectively serve as a groundwater sustainability plan for the entire basin.

(C) The department has approved an alternative pursuant to Section 10733.6.

(3) The basin is subject to paragraph (1) of subdivision (a) of Section 10720.7 and after January 31, 2020, the department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal.

(4) The basin is subject to paragraph (2) of subdivision (a) of Section 10720.7, and after January 31, 2022, none of the following have occurred:

(A) A groundwater sustainability agency has adopted a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has adopted groundwater sustainability plans that collectively serve as a groundwater sustainability plan for the entire basin.

(C) The department has approved an alternative pursuant to Section 10733.6.

(5) The basin is subject to paragraph (2) of subdivision (a) of Section 10720.7, and either of the following have occurred:

(A) After January 31, 2022, both of the following have occurred:

(i) The department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability plan is not being implemented in a manner that will likely achieve the sustainability goal.

(ii) The board determines that the basin is in a condition of long-term overdraft.

(B) After January 31, 2025, both of the following have occurred:

(i) The department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability plan is not being implemented in a manner that will likely achieve the sustainability goal.

(ii) The board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters.

(b) In making the findings associated with paragraph (3) or (5) of subdivision (a), the department and board may rely on periodic assessments the department has prepared pursuant to Chapter 10 (commencing with Section 10733). The board may request that the department conduct additional assessments utilizing the regulations developed pursuant to Chapter 10 (commencing with Section 10733) and make determinations pursuant to this section. The board shall post on its Internet Web site and provide at least 30 days for the public to comment on any determinations provided by the department pursuant to this subdivision.

(c) (1) The determination may exclude a class or category of extractions from the requirement for reporting pursuant to Part 5.2 (commencing with Section 5200) of Division 2 if those extractions are subject to a local plan or program that adequately manages groundwater within the portion of the basin to which that plan or program applies, or if those extractions are likely to have a minimal impact on basin withdrawals.

(2) The determination may require reporting of a class or category of extractions that would otherwise be exempt from reporting pursuant to paragraph (1) of subdivision (c) of Section 5202 if those extractions are likely to have a substantial impact on basin withdrawals or requiring reporting of those extractions is reasonably necessary to obtain information for purposes of this chapter.

(3) The determination may establish requirements for information required to be included in reports of groundwater extraction, for installation of measuring devices, or for use of a methodology, measuring device, or both, pursuant to Part 5.2 (commencing with Section 5200) of Division 2.

(4) The determination may modify the water year or reporting date for a report of groundwater extraction pursuant to Section 5202.

(d) If the board finds that litigation challenging the formation of a groundwater sustainability agency prevented its formation before July 1, 2017, pursuant to paragraph (1) of subdivision (a), or prevented a groundwater sustainability program from being implemented in a manner likely to achieve the sustainability goal pursuant to paragraph (3), (4), or (5) of subdivision (a), the board shall not designate a basin as a probationary basin for a period of time equal to the delay caused by the litigation.

(e) The board shall exclude from probationary status any portion of a basin for which a groundwater sustainability agency demonstrates compliance with the sustainability goal.

SEC. 546. Section 12585.12 of the Water Code, as added by Section 28 of Chapter 366 of the Statutes of 2007, is repealed.

~~12585.12. The department and the board may participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project, and may participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation.~~

SEC. 547. Section 12938.2 of the Water Code, as added by Section 29 of Chapter 652 of the Statutes of 1991, is amended and renumbered to read:

~~12938.2.~~

12938.3. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or

direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 548. Section 13272.1 of the Water Code, as added by Section 12 of Chapter 814 of the Statutes of 1997, is repealed.

~~13272.1. Each regional board shall publish and distribute on a quarterly basis to all public water system operators within the region of the regional board, a list of discharges of MTBE that occurred during the quarter and a list of locations where MTBE was detected in the groundwater within the region of the regional board.~~

SEC. 549. Section 20560.2 of the Water Code is amended to read:

20560.2. In the case of any district that owns and operates facilities for the generation, transmission, distribution, and retail sale of electric power, the district shall give notice to the California Debt *and Investment* Advisory Commission, at least 30 days prior to the proposed sale date, of the proposed sale of any evidence of indebtedness issued to provide financing of any works of the district. The notice shall include the information required by subdivision ~~(h)~~ *(i)* of Section 8855 of the Government Code. Failure to give this notice shall render the sale invalid. The California Debt *and Investment* Advisory Commission may waive the 30-day notice period upon application by the district.

In carrying out the purpose of this section, the California Debt *and Investment* Advisory Commission may charge fees payable solely from the proceeds of the sale of the debt issue in an amount equal to one-fortieth of 1 percent of the principal amount of the issue, but not to exceed five thousand dollars ($5,000) for any one issue.

The bonds shall be legal investments for all trust funds, for the funds of all insurance companies, commercial banks, savings banks, trust companies, the state school funds, and for any funds which may be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state.

SEC. 550. Section 21065 of the Water Code is amended and renumbered to read:

~~21065. [21605.]~~

21605. (a) Notwithstanding any other provision of law, subdivision (b) applies to districts in which directors are elected by divisions.

(b) The board of directors shall, by resolution, adjust the boundaries of any divisions pursuant to Chapter 8 (commencing with Section 22000) of Division 21 of the Elections Code.

SEC. 551. Section 21562.5 of the Water Code, as added by Section 3 of Chapter 1134 of the Statutes of 1994, is repealed.

~~21562.5. (a) This section applies to the Alta Irrigation District.~~

~~(b) Notwithstanding Section 21550, the board of directors of the district may adopt a resolution that increases the number of directors and the divisions from which they are elected from five to seven in accordance with this section.~~

~~(c) Notwithstanding Section 21383, if the number of district directors is increased from five to seven pursuant to this section, the number of directors required to constitute a quorum of the board and to concur on all questions, except a motion to adjourn or a motion to adjourn to a stated time, is four.~~

~~(d) The board of directors shall, by resolution, adjust the boundaries of any divisions pursuant to Chapter 3 (commencing with Section 35200) of Division 19 of the Elections Code.~~

~~(e) (1) Before considering the adoption of a resolution pursuant to subdivision (b), the board of directors shall provide at least 45 days notice of the public hearing at which the board proposes to act on the resolution. The notice of the public hearing shall be provided by placing a display advertisement of at least one-eighth page in a newspaper of general circulation in each county and incorporated city in which territory of the district is located for three weeks pursuant to Section 6063 of the Government Code. The public hearing shall be held at least 45 days after the first publication of the notice.~~

~~(2) The notice required by paragraph (1) shall include, but not be limited to, all of the following:~~

~~(A) A statement that the board of directors will consider a resolution to change from five to seven the number of directors of the district and the divisions from which they are elected.~~

~~(B) The phone number and address of an individual that interested persons may contact to receive additional information about the resolution.~~

~~(C) The date, time, and location of the public hearing.~~

~~(D) Notice that the resolution will be effective for the district elections occurring at least 180 days after adoption of the resolution unless a petition protesting the resolution containing the signatures of not less than 10 percent of the qualified registered voters of the district is filed with the secretary of the district within 30 days from the date of the adoption of the resolution in the same manner and subject to the same requirements as are set forth in Sections 3754, 3755, and 3755.5 of the Elections Code, except that all elections referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to general or special district elections and to comparable officers of the district; and the heading of the proposed referendum shall be in substantially the following form: "Referendum Against a Resolution Passed by the Board of Directors of the Alta Irrigation District Changing From Five to Seven the Number of Directors of the District and the Divisions From Which They Are Elected."~~

~~(f) This section shall become operative only if Assembly Bill 2536 of the 1993–94 Regular Session is enacted and becomes operative.~~

SEC. 552. The heading of Article 5 (commencing with Section 36459) of Chapter 6 of Part 6 of Division 13 of the Water Code is repealed.

~~Article 5. Bond Approval~~

SEC. 553. Section 37921 of the Water Code is amended to read:

37921. The board may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the district. All ordinances shall be adopted, after noticed public hearings, by a majority vote of the board. Notice of the adoption of all ordinances shall be given. The ordinances of the district shall become effective on the 31st day after adoption except that the board may, by the vote of at least four members of the board, dispense with notice of public hearing and adopt an emergency ordinance that shall

become effective immediately upon adoption, if the board determines that the public health, safety, or welfare so requires.

SEC. 554. Section 37954 of the Water Code is amended to read:

37954. The district may, by ordinance, require the operator of each extraction facility to file semiannually, or more frequently, with the district, a groundwater extraction statement that contains, but is not limited to, the following information:

~~(1)~~

(a) Total extraction in acre-feet of water from the extraction facility for the preceding groundwater extraction statement period.

~~(2)~~

(b) The static groundwater level for the extraction facility.

~~(3)~~

(c) A description of the location of the extraction facility.

~~(4)~~

(d) The crop types or other uses and the acreage served by the extraction facility.

~~(5)~~

(e) The method of measuring or computing groundwater extraction.

~~(6)~~

(f) Other information deemed reasonable and necessary by the board to meet the purposes of this act.

SEC. 555. The heading of Article 1 (commencing with Section 42500) of Chapter 3 of Part 5 of Division 14 of the Water Code is repealed.

~~Article 1. Investigation by State Treasurer~~

SEC. 556. Section 73502 of the Water Code is amended to read:

73502. (a) The city, on or before February 1, 2003, shall adopt the program of capital improvement projects designed to restore and improve the bay area regional water system that are described in the capital improvement program report prepared by the San Francisco Public Utilities Commission dated February 25, 2002. A copy of the program shall be submitted, on or before March 1, 2003, to the State ~~Department of Public Health.~~ *Water Resources Control Board.* The program shall include a schedule for the

completion of design and award of contract, and commencement and completion of construction of each described project. The schedule shall require that projects representing 50 percent of the total program cost be completed on or before 2010 and that projects representing 100 percent of the total program cost be completed on or before 2015. The program shall also contain a financing plan. The city shall review and update the program, as necessary, based on changes in the schedule set forth in the plan adopted pursuant to subdivision (d).

(b) The plan shall require completion of the following projects:

Project	Location	Project Identification Number
1. Irvington Tunnel Alternative	Alameda/Santa Clara Counties	9970
2. Crystal Springs Pump Station & Pipeline	San Mateo County	201671
3. BDPL 1 & 2-Repair of Caissons/Pipe Bridge	Alameda/San Mateo Counties	99
4. BDPL Pipeline Upgrades at Hayward Fault	Alameda County	128
5. Calaveras Fault Crossing Upgrade	Alameda County	9897
6. Crystal Springs Bypass Pipeline	San Mateo County	9891
7. BDPL Cross Connections 3 & 4	Alameda/Santa Clara Counties	202339
8. Conveyance Capacity West of Irvington Tunnel	Alameda/Santa Clara/San Mateo Counties	201441
9. Calaveras Dam Seismic Improvements	Alameda County	202135

(c) The city shall submit a report to the Joint Legislative Audit Committee, the Alfred E. Alquist Seismic Safety Commission, and the State ~~Department of Public Health,~~ *Water Resources Control Board*, on or before September 1 of each year, describing the progress made on the implementation of the capital

improvement program for the bay area regional water system during the previous fiscal year. The city shall identify in the report any project that is behind schedule, and, for each project so identified, shall describe the city's plan and timeline for either making up the delay or adopting a revised schedule pursuant to subdivision (d).

(d) (1) The city may determine that completion dates for projects contained in the capital improvement program adopted pursuant to subdivision (a), including those projects described in subdivision (b), should be delayed or that different projects should be constructed.

(2) The city shall provide written notice, not less than 30 days before the date of a meeting of the city agency responsible for management of the bay area regional water system, that a change in the program is to be considered. The notice shall include information about the reason for the proposed change and the availability of materials related to the proposed change. All bay area wholesale customers shall be permitted to testify or otherwise submit comments at the meeting.

(3) If the city adopts a change in the program that deletes one or more projects from the program, or postpones the scheduled completion dates, the city shall promptly furnish a copy of that change and the reasons for that change to the State ~~Department of Public Health~~ *Water Resources Control Board* and the Alfred E. Alquist Seismic Safety Commission. The State ~~Department of Public Health~~ *Water Resources Control Board* and the Alfred E. Alquist Seismic Safety Commission shall each submit written comments with regard to the significance of that change with respect to public health and safety to the city and the Joint Legislative Audit Committee not later than 120 days after the date on which those entities received notice of that change.

SEC. 557. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or in the manner provided by Section 6300 of the Family Code, if related to domestic violence, the juvenile court has exclusive jurisdiction to issue ex parte orders

(1) enjoining ~~any~~ *a* person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; and (2) excluding ~~any~~ *a* person from the dwelling of the person who has care, custody, and control of the child. A court may also issue an ex parte order enjoining ~~any~~ *a* person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining ~~any~~ *a* person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former social worker or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code, the juvenile court may issue ex parte orders (1) enjoining ~~any~~ *a* person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not

limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; (2) excluding ~~any~~ *a* person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. A court may also issue an ex parte order enjoining ~~any~~ *a* person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of ~~any~~ *a* parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining ~~any~~ *a* person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(c) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service of the order to show cause on

the person to be restrained. The court may, upon its own motion or the filing of a declaration by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by law and reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. The reissued order shall remain in effect until the date set for the hearing. The reissued order shall state on its face the date of expiration of the order. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) (1) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). ~~Any~~ *A* restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of ~~any~~ *a* party to the restraining order.

(2) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the juvenile court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive his or her right to notice if he or she is physically present and does not challenge the sufficiency of the notice.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (b), or (d) excluding a person from a residence or

dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or ~~any~~ *a* minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to ~~any~~ *a* person under the care, custody, and control of the other party, or to ~~any~~ *a* minor child of the parties or of the other party.

(f) ~~Any~~ *An* order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) All data with respect to a juvenile court protective order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), shall be transmitted by the court or its designee, within one business day, to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(h) ~~Any~~ *A* willful and knowing violation of ~~any~~ *an* order granted pursuant to subdivision (a), (b), (c), or (d) ~~shall be~~ *is* a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council ~~of California~~ and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the

Department of Justice shall not, in and of itself, make the order unenforceable.

(j) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): ~~any~~ *a* conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; ~~any~~ *a* misdemeanor conviction involving domestic violence, weapons, or other violence; ~~any~~ *an* outstanding warrant; parole or probation status; ~~any~~ *a* prior restraining order; and ~~any~~ *a* violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of ~~any~~ information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions necessary to execute ~~any~~ outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of ~~any~~ information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(k) Upon making ~~any~~ *an* order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

SEC. 558. Section 258 of the Welfare and Institutions Code is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, and upon either an admission by the minor of the commission of a violation charged, or a finding that the minor did in fact

commit the violation, the judge, referee, or juvenile hearing officer may do any of the following:

(1) Reprimand the minor and take no further action.

(2) Direct that the probation officer undertake a program of supervision of the minor for a period not to exceed six months, in addition to or in place of the following orders.

(3) Order that the minor pay a fine up to the amount that an adult would pay for the same violation, unless the violation is otherwise specified within this section, in which case the fine shall not exceed two hundred fifty dollars ($250). This fine may be levied in addition to or in place of the following orders and the court may waive any or all of this fine, if the minor is unable to pay. In determining the minor's ability to pay, the court ~~may~~ *shall* not consider the ability of the minor's family to pay.

(4) Subject to the minor's right to a restitution hearing, order that the minor pay restitution to the victim, in lieu of all or a portion of the fine specified in paragraph (3). The total dollar amount of the fine, restitution, and any program fees ordered pursuant to paragraph (9) ~~may~~ *shall* not exceed the maximum amount which may be ordered pursuant to paragraph (3). This paragraph ~~may~~ *shall* not be construed to limit the right to recover damages, less any amount actually paid in restitution, in a civil action.

(5) Order that the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(6) In the case of a traffic related offense, order the minor to attend a licensed traffic school, or other court approved program of traffic school instruction pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 of the Vehicle Code, to be completed by the juvenile within 60 days of the court order.

(7) Order that the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code if the violation involved an equipment violation.

(8) Order that the minor perform community service work in a public entity or any private nonprofit entity, for not more than 50

hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to this paragraph ~~may~~ *shall* not exceed 30 hours during any 30-day period. The timeframes established by this paragraph ~~may~~ *shall* not be modified except in unusual cases where the interests of justice would best be served. When the order to work is made by a referee or a juvenile hearing officer, it shall be approved by a judge of the juvenile court.

For ~~the~~ purposes of this paragraph, a judge, referee, or juvenile hearing officer ~~may~~ *shall* not, without the consent of the minor, order the minor to perform work with a private nonprofit entity that is affiliated with any religion.

(9) In the case of a misdemeanor, order that the minor participate in and complete a counseling or educational program, or, if the offense involved a violation of a controlled substance law, a drug treatment program, if those programs are available. ~~Any fees~~ *Fees* for participation shall be subject to the right to a hearing as the minor's ability to pay and ~~may~~ *shall* not, together with any fine or restitution order, exceed the maximum amount that may be ordered pursuant to paragraph (3).

(10) Require that the minor attend a school program without unexcused absence.

(11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m., require that the minor be at his or her legal residence at hours to be specified by the juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a medical or other emergency, unless the minor is accompanied by his or her parent, guardian, or other person in charge of the minor. The maximum length of an order made pursuant to this paragraph shall be six months from the effective date of the order.

(12) Make any or all of the following orders with respect to a violation of the Fish and Game Code which is not charged as a felony:

(A) That the fishing or hunting license involved be suspended or restricted.

(B) That the minor work in a park or conservation area for a total of not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(C) That the minor forfeit, pursuant to Section 12157 of the Fish and Game Code, any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and ~~which~~ *that* was used in committing the violation charged. The judge, referee, or juvenile hearing officer shall, if the minor committed an offense ~~which~~ *that* is punishable under Section 12008 of the Fish and Game Code, order the device or apparatus forfeited pursuant to Section 12157 of the Fish and Game Code.

(13) If the violation charged is of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or is a violation of Section 640 or 640a of the Penal Code, make the order that the minor shall perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(b) If the minor is before the court on the basis of truancy, as described in subdivision (b) of Section 601, all of the following procedures and limitations shall apply:

(1) The judge, referee, or juvenile hearing officer shall not proceed with a hearing unless both of the following have been provided to the court:

(A) Evidence that the minor's school has undertaken the actions specified in subdivisions (a), (b), and (c) of Section 48264.5 of the Education Code. If the school district does not have an attendance review board, as described in Section 48321 of the Education Code, the minor's school is not required to provide evidence to the court of any actions the school has undertaken that demonstrate the intervention of a school attendance review board.

(B) The available record of previous attempts to address the minor's truancy.

(2) The court is encouraged to set the hearing outside of school hours, so as to avoid causing the minor to miss additional school time.

(3) Pursuant to paragraph (1) of subdivision (a) of Section 257, the minor and his or her parents shall be advised of the minor's right to refuse consent to a hearing conducted upon a written notice to appear.

(4) The minor's parents shall be permitted to participate in the hearing.

(5) The judge, referee, or juvenile hearing officer may continue the hearing to allow the minor the opportunity to demonstrate improved attendance before imposing any of the orders specified in paragraph (6). Upon demonstration of improved attendance, the court may dismiss the case.

(6) Upon a finding that the minor violated subdivision (b) of Section 601, the judge, referee, or juvenile hearing officer shall direct his or her orders at improving the minor's school attendance. The judge, referee, or juvenile hearing officer may do any of the following:

(A) Order the minor to perform community service work, as described in Section 48264.5 of the Education Code, which may be performed at the minor's school.

(B) Order the payment of a fine by the minor of not more than fifty dollars ($50), for which a parent or legal guardian of the minor may be jointly liable. The fine described in this subparagraph shall not be subject to Section 1464 of the Penal Code or additional penalty pursuant to any other law. The minor, at his or her discretion, may perform community service, as described in subparagraph (A), in lieu of any fine imposed under this subparagraph.

(C) Order a combination of community service work described in subparagraph (A) and payment of a portion of the fine described in subparagraph (B).

(D) Restrict driving privileges in the manner set forth in paragraph (5) of subdivision (a). The minor may request removal of the driving restrictions if he or she provides proof of school attendance, high school graduation, GED completion, or enrollment in adult education, a community college, or a trade program. Any driving restriction shall be removed at the time the minor attains 18 years of age.

(c) (1) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(2) If a minor is before the judge, referee, or juvenile hearing officer on the basis of truancy, jurisdiction shall be terminated upon the minor attaining 18 years of age.

SEC. 559. Section 300 of the Welfare and Institutions Code is amended to read:

300. ~~Any~~ *A* child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For ~~the~~ purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian ~~which~~ *that* indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks ~~where~~ *if* there is no evidence of serious physical injury.

(b) (1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. ~~No~~ *A* child shall *not* be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm

or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. ~~No~~ *A* child shall *not* be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of

this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child ~~may~~ *shall* not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child's parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision ~~(e)~~ *(g)* of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender

of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

It is the intent of the Legislature that ~~nothing in~~ this section *not* disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, ~~nothing in~~ this section is *not* intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.

SEC. 560. Section 319 of the Welfare and Institutions Code is amended to read:

319. (a) At the initial petition hearing, the court shall examine the child's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the child, the child's parents or guardians, the petitioner, or their counsel desires to present. The court may examine the child, as provided in Section 350.

(b) The social worker shall report to the court on the reasons why the child has been removed from the parent's physical custody,

the need, if any, for continued detention, the available services and the referral methods to those services that could facilitate the return of the child to the custody of the child's parents or guardians, and whether there are any relatives who are able and willing to take temporary physical custody of the child. The court shall order the release of the child from custody unless a prima facie showing has been made that the child comes within Section 300, the court finds that continuance in the parent's or guardian's home is contrary to the child's welfare, and any of the following circumstances exist:

(1) There is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the parent's or guardian's physical custody.

(2) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court.

(3) The child has left a placement in which he or she was placed by the juvenile court.

(4) The child indicates an unwillingness to return home, if the child has been physically or sexually abused by a person residing in the home.

(c) If the matter is continued pursuant to Section 322 or for any other reason, the court shall find that the continuance of the child in the parent's or guardian's home is contrary to the child's welfare at the initial petition hearing or order the release of the child from custody.

(d) (1) The court shall also make a determination on the record, referencing the social worker's report or other evidence relied upon, as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from his or her home, pursuant to subdivision (b) of Section 306, and whether there are available services that would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also

review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) and Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 would have eliminated the need to take temporary custody of the child or would prevent the need for further detention.

(2) If the child can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the child with his or her parent or guardian and order that the services shall be provided. If the child cannot be returned to the physical custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child, and has been assessed pursuant to paragraph (1) of subdivision (d) of Section 309.

(3) In order to preserve the bond between the child and the parent and to facilitate family reunification, the court shall consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence of substantial danger. The court shall specify the factual basis for its conclusion that the return of the child to the custody of his or her parent would pose a substantial danger or would not pose a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child.

(e) If a court orders a child detained, the court shall state the facts on which the decision is based, specify why the initial removal was necessary, reference the social worker's report or other evidence relied upon to make its determination whether continuance in the home of the parent or legal guardian is contrary to the child's welfare, order temporary placement and care of the child to be vested with the county child welfare department pending the hearing held pursuant to Section 355 or further order of the court, and order services to be provided as soon as possible to reunify the child and his or her family if appropriate.

(f) (1) If the child is not released from custody, the court may order that the child shall be placed in the assessed home of a

relative, in an emergency shelter or other suitable licensed place, in a place exempt from licensure designated by the juvenile court, or in the assessed home of a nonrelative extended family member as defined in Section 362.7 for a period not to exceed 15 judicial days. A runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code shall not be a placement option pursuant to this section.

(2) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child: an adult who is a grandparent, aunt, uncle, or sibling of the child.

(3) The court shall consider the recommendations of the social worker based on the assessment pursuant to paragraph (1) of subdivision (d) of Section 309 of the relative's home, including the results of a criminal records check and prior child abuse allegations, if any, prior to ordering that the child be placed with a relative. The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child. The social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement.

(g) (1) At the initial hearing upon the petition filed in accordance with subdivision (c) of Rule 5.520 of the California Rules of Court or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, the court may temporarily limit the right of the parent or guardian to make educational or developmental services decisions for the child and temporarily appoint a responsible adult to make educational or developmental services decisions for the child if all of the following conditions are found:

(A) The parent or guardian is unavailable, unable, or unwilling to exercise educational or developmental services rights for the child.

(B) The county placing agency has made diligent efforts to locate and secure the participation of the parent or guardian in educational or developmental services decisionmaking.

(C) The child's educational and developmental services needs cannot be met without the temporary appointment of a responsible adult.

(2) If the court limits the parent's educational rights under this subdivision, the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child and who is available and willing to serve as the child's educational representative before appointing an educational representative or surrogate who is not known to the child.

(3) If the court cannot identify a responsible adult to make educational decisions for the child and the appointment of a surrogate parent, as defined in subdivision (a) of Section 56050 of the Education Code, is not warranted, the court may, with the input of any interested person, make educational decisions for the child. If the child is receiving services from a regional center, the provision of any developmental services related to the court's decision ~~must~~ *shall* be consistent with the child's individual program plan and pursuant to the provisions of the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)). If the court cannot identify a responsible adult to make developmental services decisions for the child, the court may, with the input of any interested person, make developmental services decisions for the child. If the court makes educational or developmental services decisions for the child, the court shall also issue appropriate orders to ensure that every effort is made to identify a responsible adult to make future educational or developmental services decisions for the child.

(4) ~~Any~~ *A* temporary appointment of a responsible adult and temporary limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. ~~Any~~ *An* order made under this section shall expire at the conclusion of the hearing held pursuant to Section 361 or upon dismissal of the petition. Upon the entering of disposition orders, ~~any~~ additional needed limitation on the parent's or guardian's educational or developmental services rights shall be addressed pursuant to Section 361.

(5) ~~Nothing in this section in any way removes~~ *This section does not remove* the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

(6) If the court appoints a developmental services decisionmaker pursuant to this section, he or she shall have the authority to access the child's information and records pursuant to subdivision (u) of Section 4514 and subdivision (y) of Section 5328, and to act on the child's behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700), and as set forth in the court order.

SEC. 561. Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2. (a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.

(b) If the court places the child with that parent it may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), *paragraph* (3), or this paragraph. However, ~~nothing in~~ this paragraph shall *not* be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code ~~shall apply~~ *applies* to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member as defined in Section 362.7.

(4) The approved home of a resource family as defined in Section 16519.5.

(5) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

(6) A suitable licensed community care facility, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(7) With a foster family agency to be placed in a suitable licensed foster family home or certified family home ~~which~~ *that* has been certified by the agency as meeting licensing standards.

(8) A home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(9) A child under six years of age may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) (i) When a case plan indicates that placement is for purposes of providing short term, specialized, and intensive treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section 11467.1 of this code, and the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department has approved the case plan.

(ii) The short term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) ~~shall~~ apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

(i) The child's parent is also a ward of the court and resides in the facility.

(ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

(10) (A) A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children only when a case plan indicates that placement is for purposes of providing short term, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, and is approved by the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(B) The short term, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control

have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(C) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of subparagraphs (A) and (B) ~~shall~~ apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(11) ~~Nothing in this~~ *This* subdivision shall *not* be construed to allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

(f) (1) A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and shall show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker

to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, "outside the United States" ~~shall~~ *does* not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This subdivision ~~shall~~ *does* not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

(g) (1) If the child is taken from the physical custody of the child's parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child's parent or guardian in order to facilitate reunification of the family.

(2) In the event that there are no appropriate placements available in the parent's or guardian's county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent's or guardian's community of residence.

(3) ~~Nothing in this~~ *This* section shall *not* be interpreted as requiring multiple disruptions of the child's placement corresponding to frequent changes of residence by the parent or guardian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent's or guardian's reason for the move.

(4) When it has been determined that it is necessary for a child to be placed in a county other than the child's parent's or guardian's county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child's case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) When it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending

county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) When it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

(h) Whenever the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until he or she has served written notice on the parent or guardian at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons ~~which~~ *that* require placement outside the county. The parent or guardian may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order

out-of-county placement if it finds that the child's particular needs require placement outside the county.

(i) ~~Where~~ *If* the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

(j) ~~Where~~ *If* the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

(k) (1) An agency shall ensure placement of a child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote the most family-like environment for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are age appropriate to meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 562. Section 391 of the Welfare and Institutions Code is amended to read:

391. (a) The dependency court shall not terminate jurisdiction over a nonminor unless a hearing is conducted pursuant to this section.

(b) At any hearing for a nonminor at which the court is considering termination of the jurisdiction of the juvenile court, the county welfare department shall do all of the following:

(1) Ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court, and elects a telephonic appearance, or document reasonable efforts made by the county welfare department to locate the nonminor when the nonminor is not available.

(2) Submit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living case plan for the nonminor when the report describes continuing dependency jurisdiction as being in the nonminor's best interest.

(3) If the county welfare department recommends termination of the court's dependency jurisdiction, submit documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent, as defined in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(4) If the nonminor has indicated that he or she does not want dependency jurisdiction to continue, the report shall address the manner in which the nonminor was advised of his or her options, including the benefits of remaining in foster care, and of his or her right to reenter foster care and to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction prior to attaining 21 years of age.

(c) (1) The court shall continue dependency jurisdiction over a nonminor who meets the definition of a nonminor dependent as described in subdivision (v) of Section 11400 unless the court finds either of the following:

(A) That the nonminor does not wish to remain subject to dependency jurisdiction.

(B) That the nonminor is not participating in a reasonable and appropriate transitional independent living case plan.

(2) In making the findings pursuant to paragraph (1), the court must also find that the nonminor has been informed of his or her options including the benefits of remaining in foster care and the

right to reenter foster care by filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction and by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, and has had an opportunity to confer with his or her counsel if counsel has been appointed pursuant to Section 317.

(d) (1) The court may terminate its jurisdiction over a nonminor if the court finds after reasonable and documented efforts the nonminor cannot be located.

(2) When terminating dependency jurisdiction, the court shall maintain general jurisdiction over the nonminor to allow for the filing of a petition to resume dependency jurisdiction under subdivision (e) of Section 388 until the nonminor attains 21 years of age, although no review proceedings shall be required. A nonminor may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction at any time before attaining 21 years of age.

(e) The court shall not terminate dependency jurisdiction over a nonminor who has attained 18 years of age until a hearing is conducted pursuant to this section and the department has submitted a report verifying that the following information, documents, and services have been provided to the nonminor, or in the case of a nonminor who, after reasonable efforts by the county welfare department, cannot be located, verifying the efforts made to make the following available to the nonminor:

(1) Written information concerning the nonminor's case, including any known information regarding the nonminor's Indian heritage or tribal connections, if applicable, his or her family history and placement history, any photographs of the nonminor or his or her family in the possession of the county welfare department, other than forensic photographs, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the nonminor is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(2) The following documents:

(A) Social security card.

(B) Certified copy of his or her birth certificate.

(C) Health and education summary, as described in subdivision (a) of Section 16010.

(D) Driver's license, as described in Section 12500 of the Vehicle Code, or identification card, as described in Section 13000 of the Vehicle Code.

(E) A letter prepared by the county welfare department that includes the following information:

(i) The nonminor's name and date of birth.

(ii) The dates during which the nonminor was within the jurisdiction of the juvenile court.

(iii) A statement that the nonminor was a foster youth in compliance with state and federal financial aid documentation requirements.

(F) If applicable, the death certificate of the parent or parents.

(G) If applicable, proof of the nonminor's citizenship or legal residence.

(H) An advance health care directive form.

(I) The Judicial Council form that the nonminor would use to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(J) The written 90-day transition plan prepared pursuant to Section 16501.1.

(3) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance.

(4) Referrals to transitional housing, if available, or assistance in securing other housing.

(5) Assistance in obtaining employment or other financial support.

(6) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(7) Assistance in maintaining relationships with individuals who are important to a nonminor who has been in out-of-home placement for six months or longer from the date the nonminor entered foster care, based on the nonminor's best interests.

(8) For nonminors between 18 and 21 years of age, assistance in accessing the Independent Living Aftercare Program in the nonminor's county of residence, and, upon the nonminor's request, assistance in completing a voluntary reentry agreement for care and placement pursuant to subdivision (z) of Section 11400 and

in filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(9) Written information notifying the child that current or former dependent children who are or have been in foster care are granted a preference for student assistant or internship positions with state agencies pursuant to Section 18220 of the Government Code. The preference shall be granted to applicants up to 26 years of age.

(f) At the hearing closest to and before a dependent minor's 18th birthday and every review hearing thereafter for nonminors, the department shall submit a report describing efforts toward completing the items described in paragraph (2) of subdivision (e).

(g) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms necessary to implement this provision.

(h) This section shall become operative on January 1, 2012.

SEC. 563. Section 1767 of the Welfare and Institutions Code is amended to read:

1767. (a) Upon request, written notice of any hearing to consider the release on parole of any person under the control of the Youth Authority for the commission of a crime or committed to the authority as a person described in Section 602 shall be sent by the Department of the Youth Authority at least 30 days before the hearing to any victim of a crime committed by the person, or to the next of kin of the victim if the victim has died or is a minor. The requesting party shall keep the board apprised of his or her current mailing address.

(b) Any one of the following persons may appear, personally or by counsel, at the hearing:

(1) The victim of the offense and one support person of his or her choosing.

(2) In the event that the victim is unable to attend the proceeding, two support persons designated by the victim may attend to provide information about the impact of the crime on the victim.

(3) If the victim is no longer living, two members of the victim's immediate family may attend.

(4) If none of those persons appear personally at the hearing, any one of them may submit a statement recorded on videotape for the board's consideration at the hearing. Those persons shall also have the right to submit a written statement to the board at

least 10 days prior to the scheduled hearing for the board's consideration at the hearing.

(c) The board, in deciding whether to release the person on parole, shall consider the statements of victims, next of kin, or statements made on their behalf pursuant to this section and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole. ~~The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.~~

(d) A representative designated by the victim or the victim's next of kin shall be either that person's legal counsel or a family or household member of the victim, for the purposes of this section.

(e) Support persons may only provide information about the impact of the crime on the victim and provide physical and emotional support to the victim or the victim's family.

(f) ~~Nothing in this~~ *This* section ~~shall~~ *does not* prevent the board from excluding a victim or his or her support person or persons from a hearing. The board may allow the presence of other support persons under particular circumstances surrounding the proceeding.

(g) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 564. Section 1984 of the Welfare and Institutions Code is amended to read:

1984. (a) The amount allocated to each county probation department from the Juvenile Reentry Grant shall be distributed in two equal payments to be paid on October 30 and May 30 of each fiscal year, until June 30, 2013. Commencing with the 2013–14 fiscal year, the amount allocated to each county probation department from the Juvenile Reentry Grant Special Account established in paragraph (2) of subdivision (c) of Section 30025 of the Government Code shall be allocated in monthly installments. In each fiscal year the amount allocated to each county probation department from the Juvenile Reentry Grant Special Account shall be distributed pursuant to the criteria set forth in subdivisions (b) to (h), inclusive, of this section.

(b) Consistent with Section 1766, funds shall be allocated in the amount of fifteen thousand dollars ($15,000) on an average daily population basis per ward discharged to the jurisdiction of the court and ordered by the court to be supervised by local county probation for monitoring and services during the previous fiscal year based on the actual number of discharged wards supervised at the local level. For each discharged ward, this funding shall be provided for 24 months.

(c) Consistent with Sections 208.5 and 1767.35, funds shall be allocated in the amount of one hundred fifteen thousand dollars ($115,000) on an average daily population basis per discharged ward transferred to a local juvenile facility for violating a condition of court-ordered supervision during the previous fiscal year based on the actual number of discharged wards housed in a local juvenile detention facility or court-ordered placement facility where the costs of the housing ~~is~~ *are* not reimbursable to the county through Title IV-E of the federal Social Security Act, or Medi-Cal. For each discharged ward, this funding shall be provided for the actual number of months the ward is housed in a facility up to 12 months. This funding shall not be provided for wards housed in a jail under any circumstances.

(d) Consistent with Section 731.1, funds shall be allocated in the amount of fifteen thousand dollars ($15,000) on an average daily population basis per parolee recalled by the county of commitment for monitoring and services during the previous fiscal year based on the actual number of parolees recalled. For each recalled parolee, this funding shall be provided for the remaining duration of the term of state supervision, not to exceed 24 months.

(e) Consistent with Section 1766, funds shall be allocated in the amount of fifteen thousand dollars ($15,000) on an average daily population basis per discharged ward transferred to the county of commitment for monitoring and services during the previous fiscal year based on the actual number of wards transferred. For each ward transferred on and after July 1, 2014, this funding shall be provided for the remaining duration of the term of juvenile court jurisdiction, not to exceed 24 months.

(f) Consistent with Sections 208.5 and 1767.35, no additional funding, beyond the initial fifteen thousand dollars ($15,000) provided pursuant to subdivision (b) shall be allocated to counties for discharged wards who are housed in county jail or in any other

county correctional facility for violating a condition of court-ordered supervision during the previous fiscal year.

(g) Consistent with Sections 208.5 and 1767.35, ~~no~~ additional funding, beyond the initial fifteen thousand dollars ($15,000) provided pursuant to subdivision (b), shall *not* be allocated to counties for discharged wards who are housed in a state juvenile facility for violating a condition of court-ordered supervision during the previous fiscal year.

(h) In each fiscal year, consistent with subdivision (b) of Section 30029.11 of the Government Code, the Department of Finance shall use the criteria outlined in subdivisions (b) to (g), inclusive, to determine each county's allocation as a percentage of the funds deposited in the Juvenile Reentry Grant Special Account. Actual allocations provided to counties pursuant to subdivisions (b) to (g), inclusive, shall vary based on the amount of funds deposited in the Juvenile Reentry Grant Special Account pursuant to subdivision (b) of Section 30028.1 of the Government Code.

SEC. 565. Section 4142 of the Welfare and Institutions Code is amended to read:

4142. (a) Notwithstanding any other law, whenever a patient is committed to the State Department of State Hospitals, a director of a state hospital or a clinician, as defined in subdivision (f), shall obtain the state summary criminal history information for the patient. The information shall be used to assess the violence risk of a patient, to assess the appropriate placement of a patient, ~~for treatment purposes of~~ *to treat* a patient, ~~for use in preparing~~ *to prepare* periodic reports as required by statute, or to determine the patient's progress or fitness for release. The state summary criminal history information shall be placed in the patient's confidential file for the duration of his or her commitment.

(b) The information may be obtained through use of the California Law Enforcement Telecommunications System (CLETS). Law enforcement personnel shall cooperate with requests for state summary criminal history information authorized pursuant to this section and shall provide the information to the requesting entity in a timely manner.

(c) A law enforcement officer or person authorized by this section to receive the information who obtains the information in the record and knowingly provides the information to a person not

authorized by law to receive the information is guilty of a misdemeanor as specified in Section 11142 of the Penal Code.

(d) Information obtained pursuant to this section shall not be used for any purposes other than those described in subdivision (a).

(e) For purposes of this section, the State Department of State Hospitals law enforcement personnel, pursuant to Section 830.38 of the Penal Code, may act as the law enforcement personnel described in subdivision (b).

(f) For purposes of this section, "clinician" means a state licensed mental health professional working within the State Department of State Hospitals who has received, and is current in, CLETS training that is appropriate for a person who has ongoing access to information from the CLETS and is not a CLETS operator, following the policies on training, compliance, and inspection required by the Department of Justice.

(g) State summary criminal history information secured pursuant to this section shall remain confidential and access shall be limited to the director of the state hospital ~~or~~ *and* the clinician. Within 30 days of discharge from the state hospital, the state summary criminal history information shall be removed from the patient's file and destroyed.

SEC. 566. Section 4144 of the Welfare and Institutions Code is amended to read:

4144. (a) A state hospital psychiatrist or psychologist may refer a patient to a pilot enhanced treatment program (ETP), as defined in Section 1265.9 of the Health and Safety Code, for temporary placement and risk assessment upon determining that the patient may be at high risk of most dangerous behavior and when safe treatment is not possible in a standard treatment environment. The referral may occur after admission to the State Department of State Hospitals, and after sufficient and documented evaluation of violence risk of the patient, with notice to the patients' rights advocate at the time of the referral. A patient shall not be placed into an ETP as a means of punishment, coercion, convenience, or retaliation.

(b) Within three business days of placement in an ETP, a dedicated forensic evaluator, who is not on the patient's treatment team, shall complete an initial evaluation of the patient that shall include an interview of the patient's treatment team, an analysis

of diagnosis, past violence, current level of risk, and the need for enhanced treatment.

(c) (1) Within seven business days of placement in an ETP and with 72-hour notice to the patient and patients' rights advocate, the forensic needs assessment panel (FNAP) shall conduct a placement evaluation meeting with the referring psychiatrist or psychologist, the patient and patients' rights advocate, and the dedicated forensic evaluator who performed the initial evaluation. A determination shall be made as to whether the patient clinically requires ETP treatment.

(2) (A) The threshold standard for treatment in an ETP is met if a psychiatrist or psychologist, utilizing standard forensic methodologies for clinically assessing violence risk, determines that a patient meets the definition of a patient at high risk of most dangerous behavior and ETP treatment meets the identified needs of the patient and safe treatment is not possible in a standard treatment environment.

(B) Factors used to determine a patient's high risk of most dangerous behavior may include, but are not limited to, an analysis of past violence, delineation of static and dynamic violence risk factors, and utilization of valid and reliable violence risk assessment testing.

(3) If a patient has shown improvement during his or her placement in an ETP, the FNAP may delay its certification decision for another seven business days. The FNAP's determination of whether the patient will benefit from continued or longer term ETP placement and treatment shall be based on the threshold standard for treatment in an ETP specified in subparagraph (A) of paragraph (2).

(d) (1) The FNAP shall review all material presented at the FNAP placement evaluation meeting conducted under subdivision (c), and the FNAP shall either certify the patient for 90 days of treatment in an ETP or direct that the patient be returned to a standard treatment environment in the hospital.

(2) After the FNAP makes a decision to provide ETP treatment and if ETP treatment will be provided at a facility other than the current hospital, the transfer may take place as soon as transportation may reasonably be arranged, but no later than 30 days after the decision is made.

(3) The FNAP determination shall be in writing and provided to the patient and patients' rights advocate as soon as possible, but no later than three business days after the decision is made.

(e) (1) Upon admission to an ETP, a forensic needs assessment team (FNAT) psychologist who is not on the patient's multidisciplinary treatment team shall perform an in-depth violence risk assessment and make an individual treatment plan for the patient based on the assessment. The individual treatment plan shall:

(A) Be in writing and developed in collaboration with the patient, when possible. The initial treatment plan shall be developed as soon as possible, but no later than 72 hours following the patient's admission. The comprehensive treatment plan shall be developed following a complete violence risk assessment.

(B) Be based on a comprehensive assessment of the patient's physical, mental, emotional, and social needs, and focused on mitigation of violence risk factors.

(C) Be reviewed and updated no less than every 10 days.

(2) The individual treatment plan shall include, but is not limited to, all of the following:

(A) A statement of the patient's physical and mental condition, including all mental health and medical diagnoses.

(B) Prescribed medication, dosage, and frequency of administration.

(C) Specific goals of treatment with intervention and actions that identify steps toward reduction of violence risk and observable, measurable objectives.

(D) Identification of methods to be utilized, the frequency for conducting each treatment method, and the person, or persons, or discipline, or disciplines, responsible for each treatment method.

(E) Documentation of the success or failure in achieving stated objectives.

(F) Evaluation of the factors contributing to the patient's progress or lack of progress toward reduction of violence risk and a statement of the multidisciplinary treatment decision for followup action.

(G) An activity plan.

(H) A plan for other services needed by the patient, such as care for medical and physical ailments, which are not provided by the multidisciplinary treatment team.

(I) Discharge criteria and goals for an aftercare plan in a standard treatment environment and a plan for post-ETP discharge follow up.

(3) An ETP patient shall receive treatment from a multidisciplinary team consisting of a psychologist, a psychiatrist, a nurse, a psychiatric technician, a clinical social worker, a rehabilitation therapist, and any other necessary staff who shall meet as often as necessary, but no less than once a week, to assess the patient's response to treatment.

(4) The staff shall observe and note any changes in the patient's condition and the treatment plan shall be modified in response to the observed changes.

(5) Social work services shall be organized, directed, and supervised by a licensed clinical social worker.

(6) (A) Mental health treatment programs shall provide and conduct organized therapeutic social, recreational, and vocational activities in accordance with the interests, abilities, and needs of the patients, including the opportunity for exercise.

(B) Mental health rehabilitation therapy services shall be designed by and provided under the direction of a licensed mental health professional, a recreational therapist, or an occupational therapist.

(7) An aftercare plan for a standard treatment environment shall be developed.

(A) A written aftercare plan shall describe those services that should be provided to a patient following discharge, transfer, or release from an ETP for the purpose of enabling the patient to maintain stabilization or achieve an optimum level of functioning.

(B) Prior to or at the time of discharge, transfer, or release from an ETP, each patient shall be evaluated concerning the patient's need for aftercare services. This evaluation shall consider the patient's potential housing, probable need for continued treatment and social services, and need for continued medical and mental health care.

(C) Aftercare plans shall include, but shall not be limited to, arrangements for medication administration and follow-up care.

(D) A member of the multidisciplinary treatment team designated by the clinical director shall be responsible for ensuring that the aftercare plan has been completed and documented in the ~~patient's~~ *patient's* health record.

(E) The patient shall receive a copy of the aftercare plan when referred to a standard treatment environment.

(f) Prior to the expiration of 90 days from the date of placement in an ETP and with 72-hour notice provided to the patient and the patients' rights advocate, the FNAP shall convene a treatment placement meeting with a psychologist from the treatment team, a patients' rights advocate, the patient, and the FNAT psychologist who performed the in-depth violence risk assessment. The FNAP shall determine whether the patient may return to a standard treatment environment or whether the patient clinically requires continued treatment in an ETP. If the FNAP determines that the patient clinically requires continued ETP placement, the patient shall be certified for further ETP placement for one year. The FNAP determination shall be in writing and provided to the patient and the patients' rights advocate within 24 hours of the meeting. If the FNAP determines that the patient is ready to be transferred to a standard treatment environment, the FNAP shall identify appropriate placement within a standard treatment environment in a state hospital, and transfer the patient within 30 days of the determination.

(g) If a patient has been certified for ETP treatment for one year pursuant to subdivision (f), the FNAP shall review the patient's treatment summary at least every 90 days to determine if the patient no longer clinically requires treatment in the ETP. This FNAP determination shall be in writing and provided to the patient and the patients' rights advocate within three business days of the meeting. If the FNAP determines that the patient no longer clinically requires treatment in the ETP, the FNAP shall identify appropriate placement, and transfer the patient within 30 days of the determination.

(h) Prior to the expiration of the one-year certification of ETP placement under subdivision (f), and with 72-hour notice provided to the patient and the patients' rights advocate, the FNAP shall convene a treatment placement meeting with the treatment team, the patients' rights advocate, the patient, and the FNAT psychologist who performed the in-depth violence risk assessment. The FNAP shall determine whether the patient clinically requires continued ETP treatment. The FNAP determination shall be in writing and provided to the patient and the patients' rights advocate within 24 hours of the meeting.

(i) If after the treatment placement meeting described in subdivision (h), and after discussion with the patient, the patients' rights advocate, patient's ETP team members, and review of documents and records, the FNAP determines that the patient clinically requires continued ETP placement, the patient's case shall be referred outside of the State Department of State Hospitals to a forensic psychiatrist or psychologist for an independent medical review for the purpose of assessing the patient's overall treatment plan and the need for ongoing ETP treatment. Notice of the referral shall be provided to the patient and the patients' rights advocate within 24 hours of the FNAP meeting as part of the FNAP determination. The notice shall include instructions for the patient to submit information to the forensic psychiatrist or psychologist conducting the independent medical review.

(1) The forensic psychiatrist or psychologist conducting the independent medical review shall be provided with the patient's medical and psychiatric documents and records, along with any additional information submitted by the patient, within five business days from the date of the FNAP's determination that the patient requires continued ETP placement.

(2) After reviewing the patient's medical and psychiatric documents and records, along with any additional information submitted by the patient, but no later than 14 days after the receipt of the patient's medical and psychiatric documents and records, the forensic psychiatrist or psychologist conducting the independent medical review shall provide the State Department of State Hospitals, the patient, and the patients' rights advocate with a written notice of the date and time for a hearing. At least one FNAP member is required to attend the hearing. The notice shall be provided at least 72 hours in advance of the hearing, shall include a statement that at least one FNAP member is required to attend the hearing, and advise the patient of his or her right to a hearing or to waive his or her right to a hearing. The notice shall also include a statement that the patient may have assistance of a patients' rights advocate or staff member at the hearing. Seventy-two-hour notice shall also be provided to any individuals whose presence is requested by the forensic psychiatrist or psychologist conducting the independent medical review in order to help assess the patient's overall treatment plan and the need for ongoing ETP treatment.

(3) If the patient waives his or her right to a hearing, the forensic psychiatrist or psychologist conducting the independent medical review shall make recommendations to the FNAP on whether or not the patient should be certified for ongoing ETP treatment.

(4) If the patient does not waive the right to a hearing, both of the following shall be provided:

(A) If the patient elects to have the assistance of a patients' rights advocate or a staff person, ~~including the patients' rights advocate,~~ the requested person shall provide assistance relating to the hearing, whether or not the patient is present at the hearing, unless the forensic psychiatrist or psychologist conducting the hearing finds good cause why the requested person should not participate. Good cause includes a reasonable concern for the safety of a staff member requested to be present at the hearing.

(B) An opportunity for the patient to present information, statements, or arguments, either orally or in writing, to show either that the information relied on for the FNAP's determination for ongoing treatment is erroneous, or any other relevant information.

(5) The conclusion reached by the forensic psychiatrist or psychologist who conducts the independent medical review shall be in writing and provided to the State Department of State Hospitals, the patient, and the patients' rights advocate within three business days of the conclusion of the hearing.

(6) If the forensic psychiatrist or psychologist who conducts the independent medical review concludes that the patient requires ongoing ETP treatment, the patient shall be certified for further treatment for an additional year.

(7) If the forensic psychiatrist or psychologist who conducts the independent medical review determines that the patient no longer requires ongoing ETP treatment, the FNAP shall identify appropriate placement and transfer the patient within 30 days of determination.

(j) At any point during the ETP placement, if a patient's treatment team determines that the patient no longer clinically requires ETP treatment, a recommendation to transfer the patient out of the ETP shall be made to the FNAT or FNAP.

(k) The process described in this section may continue until the patient no longer clinically requires ETP treatment or until the patient is discharged from the State Department of State Hospitals.

(*l*) As used in this section, the following terms have the following meanings:

(1) "Enhanced treatment program" or "ETP" means a supplemental treatment unit as defined in Section 1265.9 of the Health and Safety Code.

(2) "Forensic needs assessment panel" or "FNAP" means a panel that consists of a psychiatrist, a psychologist, and the medical director of the hospital or facility, none of whom are involved in the patient's treatment or diagnosis at the time of the hearing or placement meetings.

(3) "Forensic needs assessment team" or "FNAT" means a panel of psychologists with expertise in forensic assessment or violence risk assessment, each of whom are assigned an ETP case or group of cases.

(4) "In-depth violence risk assessment" means the utilization of standard forensic methodologies for clinically assessing the risk of a patient posing a substantial risk of inpatient aggression.

(5) "Patients' rights advocate" means the advocate contracted under Sections 5370.2 and 5510.

(6) "Patient at high risk of most dangerous behavior" means the individual has a history of physical violence and currently poses a demonstrated danger of inflicting substantial physical harm upon others in an inpatient setting, as determined by an evidence-based, in-depth violence risk assessment conducted by the State Department of State Hospitals.

(m) The State Department of State Hospitals may adopt emergency regulations in accordance with the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement the treatment components of this section. The adoption of an emergency regulation under this paragraph is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of State Hospitals is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

SEC. 567. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this division:

(a) "Developmental disability" means a disability that originates before an individual attains 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services and supports for persons with developmental disabilities" means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, and normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home, child care, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention,

facilitating circles of support, habilitation, homemaker services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, telehealth services and supports, as defined in Section 2290.5 of the Business and Professions Code, supported living arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary to ensure delivery of services to persons with developmental disabilities. Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

(c) Notwithstanding subdivisions (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, as amended, "developmental disability" and "services for persons with developmental disabilities" mean the terms as defined in the federal act to the extent required by federal law.

(d) "Consumer" means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) "Natural supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities.

(f) "Circle of support" means a committed group of community members, who may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. A circle of support generally includes a plurality of members who neither provide nor receive services or supports for

persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) "Facilitation" means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, that will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices that affect his or her life.

(h) "Family support services" means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(i) "Voucher" means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization that enables the consumer or family member to choose his or her own service provider.

(j) "Planning team" means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, any individual, including a service provider, invited by the consumer, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, or the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, and including a minor's, dependent's, or ward's court-appointed developmental services decisionmaker appointed pursuant to Section 319, 361, or 726.

(k) "Stakeholder organizations" means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

(*l*) *(1)* "Substantial disability" means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

~~(1)~~
(A) Self-care.
~~(2)~~
(B) Receptive and expressive language.
~~(3)~~
(C) Learning.
~~(4)~~
(D) Mobility.
~~(5)~~
(E) Self-direction.
~~(6)~~
(F) Capacity for independent living.
~~(7)~~
(G) Economic self-sufficiency.
~~Any~~
(2) A reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

(m) "Native language" means the language normally used or the preferred language identified by the individual and, when appropriate, his or her parent, legal guardian or conservator, or authorized representative.

SEC. 568. Section 4520 of the Welfare and Institutions Code is amended to read:

4520. (a) A State Council on Developmental Disabilities with authority independent of any single state service agency is hereby created.

(b) The Legislature finds that in each of the 56 states and territories, the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. *Sec.* 15001 et seq.)) establishes State Councils on Developmental Disabilities that work to promote the core values of the act, including self-determination, independence, productivity, integration, and inclusion in all aspects of community life.

(c) The Legislature finds that California's State Council on Developmental Disabilities was established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 to engage in advocacy, capacity building, and systemic change activities that are consistent with the policy contained in federal law and contribute to a coordinated, consumer- and

family-centered, consumer- and family-directed, comprehensive system that includes the provision of needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families. It is the intent of the Legislature that the state council independently exercise its authority and responsibilities under federal law, expend its federal funding allocation, and exercise all powers and duties that may be necessary to carry out the purposes contained in applicable federal law.

(d) The Legislature finds that the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 requires the council to promote certain principles that include all of the following:

(1) Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of self-determination, independence, productivity, and integration and inclusion in all facets of community life, but often require the provision of community services, individualized supports, and other forms of assistance.

(2) Individuals with developmental disabilities and their families have competencies, capabilities, and personal goals that should be recognized, supported, and encouraged, and any assistance to these individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of these individuals.

(3) Individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports these individuals and their families receive, including choosing where an individual lives from available options, and have decisionmaking roles in policies and programs that affect the lives of these individuals and their families.

(e) (1) The Legislature finds that the state council faces unique challenges in ensuring access and furthering these principles due to the state's size, diversity, and a service delivery system that promotes significant local control.

(2) Therefore, it is the intent of the Legislature that the state council, consistent with its authority and responsibilities under federal law, ensure that the council is accessible and responsive to the diverse geographic, racial, ethnic, and language needs of individuals with developmental disabilities and their families

throughout California, which in part may, as determined by the state council, be achieved through the establishment of regional offices, the number and location of which may be determined by the state council.

(f) This chapter, Chapter 3 (commencing with Section 4561), and Division 4.7 (commencing with Section 4900), are intended by the Legislature to secure full compliance with the requirements of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 as amended and extended, which provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities.

(g) The state council may use funds and other moneys allocated to the state council in accordance with the purposes of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000. This section does not preclude the state council from using moneys other than moneys provided through the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 in any manner consistent with applicable federal and state law.

SEC. 569. Section 4520.5 of the Welfare and Institutions Code is amended to read:

4520.5. Notwithstanding any other law, the state council shall determine the structure of its organization, as required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. *Sec.* 15001 et seq.)).

SEC. 570. Section 4521 of the Welfare and Institutions Code is amended to read:

4521. (a) (1) All references to "council" or "state council" in this division shall be a reference to the State Council on Developmental Disabilities.

(2) "Developmental disability," as used in this chapter, means a developmental disability as defined in Section 15002(8) of Title 42 of the United ~~State~~ *States* Code.

(b) There shall be 31 voting members on the state council appointed by the Governor from among the residents of the state, as follows:

(1) (A) Twenty members of the council shall be nonagency members who reflect the socioeconomic, geographic, disability,

racial, ethnic, and language diversity of the state, and who shall be persons with a developmental disability or their parents, immediate relatives, guardians, or conservators residing in California. Of the 20 members:

(i) At least seven members shall be persons with developmental disabilities.

(ii) At least seven members shall be a person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability.

(iii) At least one of the members shall be a person with a developmental disability who is a current or former resident of an institution or his or her immediate relative, guardian, or conservator.

(B) To ensure that state council membership is geographically representative, as required by federal law, the Governor shall appoint the members described in clauses (i) and (ii) of subparagraph (A) from the geographical area of each regional office, if regional offices have been established by the council. Each member described in clauses (i) and (ii) of subparagraph (A) may, in the discretion of the state council, serve as a liaison from the state council to consumers and family members in the geographical area that he or she is from.

(2) Eleven members of the council shall include the following:

(A) The Secretary of California Health and Human Services, or his or her designee, who shall represent the agency and the state agency that administers funds under Title XIX of the Social Security Act for people with developmental disabilities.

(B) The Director of Developmental Services or his or her designee.

(C) The Director of Rehabilitation or his or her designee.

(D) The Superintendent of Public Instruction or his or her designee.

(E) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities.

(F) One representative from each of the three university centers for excellence in the state, pursuant to Section 15061 et seq. of Title 42 of the United States Code, providing training in the field of developmental services, or his or her designee. These individuals shall have expertise in the field of developmental disabilities.

(G) The Director of Health Care Services or his or her designee.

(H) The executive director of the agency established in California to fulfill the requirements and assurance of Title I, Subtitle C, of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 for a system to protect and advocate the rights of persons with developmental disabilities, or his or her designee.

(I) The Director of the California Department of Aging or his or her designee.

(c) Prior to appointing the members described in paragraph (1) of, and subparagraph (E) of paragraph (2) of, subdivision (b), the Governor shall consult with the current members of the council, including nonagency members of the council, and consider recommendations from organizations representing persons with a broad range of developmental disabilities, or persons interested in, or providing services to, or both, persons with developmental disabilities.

(d) The term of each member described in paragraph (1) of, and subparagraph (E) of paragraph (2) of, subdivision (b) shall be for three years. The term of these members shall begin on the date of appointment by the Governor and these members shall serve no more than two terms.

(e) A member may continue to serve following the expiration of his or her term until the Governor appoints that member's successor. The state council shall notify the Governor regarding membership requirements of the council and shall notify the Governor, in writing, immediately when a vacancy occurs prior to the expiration of a member's term, at least six months before a member's term expires, and when a vacancy on the council remains unfilled for more than 60 days.

SEC. 571. Section 4540 of the Welfare and Institutions Code is amended to read:

4540. The state council, established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. *Sec.* 15001 et seq.)), shall do all of the following:

(a) Serve as an advocate for individuals with developmental disabilities and, through council members, staff, consultants, and contractors and grantees, conduct advocacy, capacity building, and systemic change activities.

(b) Develop and implement the state plan in accordance with requirements issued by the United States Secretary of Health and Human Services, monitor and evaluate the implementation of this plan, and submit reports as the United States Secretary of Health and Human Services may reasonably request. The state council may review and comment on other plans and programs in the state affecting individuals with developmental disabilities.

(c) Serve as the official agency responsible for planning the provision of the federal funds allotted to the state under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), by conducting and supporting advocacy, capacity building, and systemic change activities. The council may itself conduct these activities and may provide grant funding to local agencies in compliance with applicable state and federal law, for those same purposes.

(d) Prepare and approve a budget, for the use of amounts paid to the state to hire any staff and to obtain the services of any professional, technical, or clerical personnel consistent with state and federal law, as the council determines to be necessary to carry out its functions.

(e) To the extent that resources are available, implement the state plan by conducting activities including, but not limited to, all of the activities specified in paragraphs (1) to (11), inclusive.

(1) Encouraging and assisting in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities.

(2) Supporting and conducting geographically based outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the council and assist and enable the individuals and families to obtain services, individualized supports, and other forms of assistance, including access to special adaptation of generic community services or specialized services.

(3) Supporting and conducting training for persons who are individuals with developmental disabilities, their families, and personnel, including professionals, paraprofessionals, students, volunteers, and other community members, to enable those persons to obtain access to, or to provide, community services, individualized supports, and other forms of assistance, including special adaptation of generic community services or specialized

services for individuals with developmental disabilities and their families.

(4) Supporting and conducting technical assistance activities to assist public and private entities to contribute to the objectives of the state plan.

(5) Supporting and conducting activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families.

(6) Supporting and conducting activities to promote interagency collaboration and coordination at the state and local levels to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

(7) Coordinating with related councils, committees, and programs to enhance coordination of services.

(8) Supporting and conducting activities to eliminate barriers to access and use of community services by individuals with disabilities, enhance systems design and redesign, and enhance citizen participation to address issues identified in the state plan.

(9) Supporting and conducting activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families, and to develop and support coalitions that support the policy agenda of the council, including training in self-advocacy, education of policymakers, and citizen leadership roles.

(10) Supporting and conducting activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations. The council may provide the information directly to federal, state, and local policymakers, including the Congress of the United States, the federal executive branch, the Governor, the Legislature, and state agencies in order to increase the abilities of those policymakers to offer opportunities and enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families.

(11) Supporting, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change.

(f) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of this division to the Governor and the Legislature. This report shall include both the statewide and regional activities of the state council. This report shall be submitted to the Legislature in accordance with Section 9795 of the Government Code.

(g) Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the financial management and accounting of funds.

SEC. 572. Section 4541 of the Welfare and Institutions Code is amended to read:

4541. The state council may, in its discretion, and in addition to the activities specified in subdivision (e) of Section 4540, implement the state plan by conducting activities that may include, but are not limited to, the following:

(a) Appointing an authorized representative for persons with developmental disabilities according to all of the following:

(1) To ensure the protection of civil and service rights of persons with developmental disabilities, the state council may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, when the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the state council, will not be properly protected or advocated without the appointment of a representative.

(2) When there is no guardian or conservator, the individual's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family members, or a volunteer selected by the state council. In establishing these preferences, it is the intent of the Legislature that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the person with developmental disabilities expresses otherwise, or good cause otherwise exists, the request of the parents or

involved family members to be appointed the representative shall be honored.

(3) Pursuant to this section, the state council shall appoint a representative to advocate the rights and protect the interest of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803. The representative may obtain the advocacy assistance of the regional center clients' rights advocate.

(b) Conducting public hearings and forums and the evaluation and issuance of public reports on the programs identified in the state plan, as may be necessary to carry out the duties of the state council.

(c) Identifying the denial of rights of persons with disabilities and informing the appropriate local, state, or federal officials of their findings, and assisting these officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

(d) Reviewing and commenting on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities including, but not ~~be~~ limited to, the State Department of Education, the Department of Rehabilitation, and the State Department of Developmental Services, and local agencies to the extent resources allow.

(e) (1) Promoting systems change and implementation by reviewing the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities to determine if the programs are meeting their obligations, under local, state, and federal laws. If the state council finds that the agency is not meeting its obligations, the state council may inform the director and the governing board of the noncomplying agency, in writing, of its findings.

(2) Within 15 days, the agency shall respond, in writing, to the state council's findings. Following receipt of the agency's response, if the state council continues to find that the agency is not meeting its obligations, the state council may pursue informal efforts to resolve the issue.

(3) If, within 30 days of implementing informal efforts to resolve the issue, the state council continues to find that the agency is not

meeting its obligations under local, state, or federal statutes, the state council may conduct a public hearing to receive testimony on its findings.

(4) The state council may take any action it deems necessary to resolve the problem.

(f) Reviewing and publicly commenting on significant regulations proposed to be promulgated by any state agency in the implementation of this division.

(g) Monitoring and evaluating the effectiveness of appeals procedures established in this division.

(h) Providing testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(i) Conducting, or causing to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. These investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.

(j) Any other activities prescribed in statute that are consistent with the purposes of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.)) and the state plan developed pursuant to subdivision (b) of Section 4540.

SEC. 573. Section 4648 of the Welfare and Institutions Code is amended to read:

4648. ~~In order to~~ *To* achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities, including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports ~~which~~ *that* would allow

minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.

(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency that the regional center and consumer or, when appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or any part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department, regional centers, vendors, and the individual or agency requesting vendorization.

(C) Regulations shall include, but not be limited to: the vendor application process, and the basis for accepting or denying an application; the qualification and requirements for each category of services that may be provided to a regional center consumer through a vendor; requirements for emergency vendorization; procedures for termination of vendorization; the procedure for an individual or an agency to appeal any vendorization decision made by the department or regional center.

(D) A regional center may vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity. A facility already licensed on January 1, 1999, shall continue to be vendorized at their full licensed capacity until the facility agrees to vendorization at a reduced capacity.

(E) Effective July 1, 2009, notwithstanding any other law or regulation, a regional center shall not newly vendor a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, unless the facility qualifies for receipt of federal funds under the Medicaid Program.

(4) Notwithstanding subparagraph (B) of paragraph (3), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, any provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

(5) In order to ensure the maximum flexibility and availability of appropriate services and supports for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of services and supports identified as necessary to the implementation of a ~~consumers'~~ *consumer's* individual program plan. The system of payment shall include a provision for a rate to ensure that the provider can meet the special needs of consumers and provide quality services and supports in the least restrictive setting as required by law.

(6) The regional center and the consumer, or when appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports that can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) ~~Where~~ *If* appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available, shall be reviewed, and the least costly available provider of comparable service, including the cost of transportation, who is able to accomplish all or part of the consumer's individual program plan, consistent with the particular needs of the consumer and family as identified in the individual program plan, shall be selected. In determining the least costly provider, the availability of federal financial participation shall be considered. The consumer shall not be required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

(E) The consumer's choice of providers, or, when appropriate, the consumer's parent's, legal guardian's, authorized representative's, or conservator's choice of providers.

(7) ~~No~~ *A* service or support provided by ~~any~~ *an* agency or individual shall *not* be continued unless the consumer or, when appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

(8) Regional center funds shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

(9) (A) A regional center may, directly or through an agency acting on behalf of the center, provide placement in, purchase of, or follow-along services to persons with developmental disabilities in, appropriate community living arrangements, including, but not

limited to, support service for consumers in homes they own or lease, foster family placements, health care facilities, and licensed community care facilities. In considering appropriate placement alternatives for children with developmental disabilities, approval by the child's parent or guardian shall be obtained before placement is made.

(B) Effective July 1, 2012, notwithstanding any other law or regulation, a regional center shall not purchase residential services from a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds. This prohibition on regional center purchase of residential services ~~shall~~ *does* not apply to any of the following:

(i) A residential facility with a licensed capacity of 16 or more beds that has been approved to participate in the department's Home and Community Based Services Waiver or another existing waiver program or certified to participate in the Medi-Cal program.

(ii) A residential facility service provider that has a written agreement and specific plan prior to July 1, 2012, with the vendoring regional center to downsize the existing facility by transitioning its residential services to living arrangements of 15 beds or less or restructure the large facility to meet federal Medicaid eligibility requirements on or before June 30, 2013.

(iii) A residential facility licensed as a mental health rehabilitation center by the State Department of Mental Health or successor agency under any of the following circumstances:

(I) The facility is eligible for Medicaid reimbursement.

(II) The facility has a department-approved plan in place by June 30, 2013, to transition to a program structure eligible for federal Medicaid funding, and this transition will be completed by June 30, 2014. The department may grant an extension for the date by which the transition will be completed if the facility demonstrates that it has made significant progress toward transition, and states with specificity the timeframe by which the transition will be completed and the specified steps that will be taken to accomplish the transition. A regional center may pay for the costs of care and treatment of a consumer residing in the facility on June 30, 2012, until June 30, 2013, inclusive, and, if the facility has a department-approved plan in place by June 30, 2013, may continue to pay the costs under this subparagraph until June 30, 2014, or

until the end of any period during which the department has granted an extension.

(III) There is an emergency circumstance in which the regional center determines that it cannot locate alternate federally eligible services to meet the consumer's needs. Under such an emergency circumstance, an assessment shall be completed by the regional center as soon as possible and within 30 days of admission. An individual program plan meeting shall be convened immediately following the assessment to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility into the community. If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of placement in the facility. Commencing October 1, 2012, this determination shall be made after also considering resource options identified by the statewide specialized resource service. If it is determined that emergency services continue to be necessary, the regional center shall submit an updated transition plan that can cover a period of up to 90 days. In no event shall placements under these emergency circumstances exceed 180 days.

(C) (i) Effective July 1, 2012, notwithstanding any other law or regulation, a regional center shall not purchase new residential services from, or place a consumer in, institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding is not available. Effective July 1, 2013, this prohibition applies regardless of the availability of federal funding.

(ii) The prohibition described in clause (i) ~~shall~~ *does* not apply to emergencies, as determined by the regional center, when a regional center cannot locate alternate services to meet the consumer's needs. As soon as possible within 30 days of admission due to an emergency, an assessment shall be completed by the regional center. An individual program plan meeting shall be convened immediately following the assessment, to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility to the community. If transition is not expected within 90 days of admission, an emergency program plan meeting shall be held to discuss the status of the transition and to determine if the consumer is still in need

of placement in the facility. If emergency services continue to be necessary, the regional center shall submit an updated transition plan to the department for an extension of up to 90 days. Placement shall not exceed 180 days.

(iii) To the extent feasible, prior to any admission, the regional center shall consider resource options identified by the statewide specialized resource service established pursuant to subdivision (b) of Section 4418.25.

(iv) The clients' rights advocate shall be notified of each admission and individual program planning meeting pursuant to this subparagraph and may participate in all individual program planning meetings unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include a copy of the most recent comprehensive assessment or updated assessment and the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(v) Regional centers shall complete a comprehensive assessment of any consumer residing in an institution for mental disease as of July 1, 2012, for which federal Medicaid funding is not available, and for any consumer residing in an institution for mental disease as of July 1, 2013, without regard to federal funding. The comprehensive assessment shall be completed prior to the consumer's next scheduled individual program plan meeting and shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to the community. Effective October 1, 2012, the regional center shall also consider resource options identified by the statewide specialized resource service. For each individual program plan meeting convened pursuant to this subparagraph, the clients' rights advocate for the regional center shall be notified of the meeting and may participate in the meeting unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(D) A person with developmental disabilities placed by the regional center in a community living arrangement ~~shall have~~ *has* the rights specified in this division. These rights shall be brought

to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with intellectual disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audiotapes, when necessary to meet the communication needs of consumers.

(E) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with developmental disabilities in the living arrangement of their own choice. Crisis services shall first be provided without disrupting a person's living arrangement. If crisis intervention services are unsuccessful, emergency housing shall be available in the person's home community. If dislocation cannot be avoided, every effort shall be made to return the person to his or her living arrangement of choice, with all necessary supports, as soon as possible.

(11) Among other service and support options, planning teams shall consider the use of paid roommates or neighbors, personal assistance, technical and financial assistance, and all other service

and support options which would result in greater self-sufficiency for the consumer and cost-effectiveness to the state.

(12) When facilitation as specified in an individual program plan requires the services of an individual, the facilitator shall be of the consumer's choosing.

(13) The community support may be provided to assist individuals with developmental disabilities to fully participate in community and civic life, including, but not limited to, programs, services, work opportunities, business, and activities available to persons without disabilities. This facilitation shall include, but not be limited to, any of the following:

(A) Outreach and education to programs and services within the community.

(B) Direct support to individuals that would enable them to more fully participate in their community.

(C) Developing unpaid natural supports when possible.

(14) When feasible and recommended by the individual program planning team, for purposes of facilitating better and cost-effective services for consumers or family members, technology, including telecommunication technology, may be used in conjunction with other services and supports. Technology in lieu of a consumer's in-person appearances at judicial proceedings or administrative due process hearings may be used only if the consumer or, when appropriate, the consumer's parent, legal guardian, conservator, or authorized representative, gives informed consent. Technology may be used in lieu of, or in conjunction with, in-person training for providers, as appropriate.

(15) Other services and supports may be provided as set forth in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

(16) Notwithstanding any other law or regulation, effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice. For regional center consumers receiving these services as part of their individual program plan (IPP) or individualized family service

plan (IFSP) on July 1, 2009, this prohibition shall apply on August 1, 2009.

(b) (1) Advocacy for, and protection of, the civil, legal, and service rights of persons with developmental disabilities as established in this division.

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request advocacy assistance from the state council.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, when appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that agency or individual provider in upgrading the quality of services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority to investigate the possible noncompliance.

(e) When necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize

appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) When there are identified gaps in the system of services and supports or when there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

(h) At least annually, regional centers shall provide the consumer, his or her parents, legal guardian, conservator, or authorized representative a statement of services and supports the regional center purchased for the purpose of ensuring that they are delivered. The statement shall include the type, unit, month, and cost of services and supports purchased.

SEC. 574. Section 5840.2 of the Welfare and Institutions Code is amended to read:

5840.2. ~~(a)~~ The department shall contract for the provision of services pursuant to this part with each county mental health program in the manner set forth in Section 5897.

SEC. 575. The heading of Article 8 (commencing with Section 5869) of Chapter 1 of Part 4 of Division 5 of the Welfare and Institutions Code is amended to read:

Article 8. State Department of ~~Mental~~ Health *Care Services* Requirements

SEC. 576. Section 5892.5 of the Welfare and Institutions Code is amended to read:

5892.5. (a) (1) The California Housing Finance Agency, with the concurrence of the State Department of Health Care Services, shall release unencumbered Mental Health Services Fund moneys dedicated to the Mental Health Services Act ~~Housing Program~~ *housing program* upon the written request of the respective county. The county shall use these Mental Health Services Fund moneys released by the agency to provide housing assistance to the target populations who are identified in Section 5600.3.

(2) For purposes of this section, “housing assistance” means each of the following:

(A) Rental assistance or capitalized operating subsidies.

(B) Security deposits, utility deposits, or other move-in cost assistance.

(C) Utility payments.

(D) Moving cost assistance.

(E) Capital funding to build or rehabilitate housing for homeless, mentally ill persons or mentally ill persons who are at risk of being homeless.

(b) For purposes of administering those funds released to a respective county pursuant to subdivision (a), the county shall comply with all of the requirements described in the Mental Health Services Act, including, but not limited to, Sections 5664, 5847, subdivision (h) of Section 5892, and 5899.

SEC. 577. The heading of Article 1 (commencing with Section 6331) is added to Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, to read:

Article 1. Mentally Disordered Sex Offenders (Repealed)

SEC. 578. Section 9757.5 of the Welfare and Institutions Code is amended and renumbered to read:

~~9757.5.~~

9541.5. (a) The California Department of Aging shall assess annually a fee of not less than one dollar and forty cents ($1.40), but not more than one dollar and sixty-five cents ($1.65), on a health care service plan for each person enrolled in a health care service plan as of December 31 of the previous year under a prepaid Medicare program that serves Medicare eligible beneficiaries within the state, and on a health care service plan for each enrollee under a Medicare supplement contract, including a Medicare Select contract, as of December 31 of the previous year, to offset the cost of counseling Medicare eligible beneficiaries on the benefits and programs available through health maintenance organizations instead of the traditional Medicare provider system.

(b) All fees collected pursuant to this section shall be deposited into the State HICAP Fund for the implementation of the Health Insurance Counseling and Advocacy Program, and shall be available for expenditure for activities as specified in Section 9541 when appropriated by the Legislature.

(c) The department may use up to 7 percent of the fee collected pursuant to subdivision (a) for the administration, assessment, and collection of that fee.

(d) It is the intent of the Legislature, in enacting this act and funding the Health Insurance Counseling and Advocacy Program, to maintain a ratio of two dollars ($2) collected from the Insurance Fund to every one dollar ($1) collected pursuant to subdivision (a). This ratio shall be reviewed by the Department of Finance within 30 days of January 1, 1999, and biennially thereafter to examine changes in the demographics of Medicare imminent populations, including, but not limited to, the number of citizens residing in California 55 years of age and older, the number and average duration of counseling sessions performed by counselors of the Health Insurance Counseling and Advocacy Program, particularly the number of counseling sessions regarding prepaid Medicare programs and counseling sessions regarding Medi-Gap programs, and the use of other long-term care and health-related products. Upon review, the Department of Finance shall make recommendations to the Joint Legislative Budget Committee regarding appropriate changes to the ratio of funding from the Insurance Fund and the fees collected pursuant to subdivision (a).

(e) It is the intent of the Legislature that the revenue raised from the fee assessed pursuant to subdivision (a), and according to the ratio established pursuant to subdivision (d), be used to partially offset and reduce the amount of revenue appropriated annually from the Insurance Fund for funding of the Health Insurance Counseling and Advocacy Program.

(f) There shall be established in the State Treasury a "State HICAP Fund" administered by the California Department of Aging for the purpose of collecting fee assessments described in subdivision (a), and for the sole purpose of funding the Health Insurance Counseling and Advocacy Program.

~~(g) The department shall issue a supplemental billing during the 2005-06 fiscal year to generate additional revenue authorized by the act that amended this section during the 2005 portion of the 2005-06 Regular Session. Notwithstanding subdivision (h), the department may use a portion of the additional revenue generated in the 2005-06 fiscal year to pay for the costs associated with issuing this supplemental billing.~~

~~(h)~~

(g) It is the intent of the Legislature that, starting in the 2005-06 fiscal year, two million dollars ($2,000,000) of additional funding shall be made available to local HICAP programs, to be derived

from an increase in the HICAP fee and the corresponding Insurance Fund pursuant to subdivision (d). Any additional funding shall only be used for local HICAP funding and shall not be used for department or local area agencies on aging administration.

SEC. 579. Section 10104 of the Welfare and Institutions Code is amended to read:

10104. (a) It is the intent of the Legislature to ensure that the impacts of the 2011 realignment of child welfare services, foster care, adoptions, and adult protective services programs are identified and evaluated initially and over time. It is further the intent of the Legislature to ensure that information regarding these impacts is publicly available and accessible and can be utilized to support the state's and counties' effectiveness in delivering these critical services and supports.

(b) The State Department of Social Services shall annually report to the appropriate fiscal and policy committees of the Legislature, and publicly post on the department's Internet Web site, a summary of outcome and expenditure data that allows for monitoring of changes over time.

(c) The report shall be submitted and posted by April 15 of each year and shall contain expenditures for each county for the programs described in clauses (i) to (vii), inclusive, of subparagraph (A) of paragraph (16) of subdivision (f) of Section 30025 of the Government Code. To the extent that the information is readily or publicly available, the report shall also contain the amount of funds each county receives from the Protective Services Growth Special Account created pursuant to Section 30025 of the Government Code, child welfare services social worker caseloads per county, and the number of authorized positions in the local child welfare services agency.

(d) The department shall consult with legislative staff and with stakeholders to develop a reporting format consistent with the Legislature's desired level of outcome and expenditure reporting detail.

SEC. 580. Section 11253.5 of the Welfare and Institutions Code is amended to read:

11253.5. (a) All children in an assistance unit for whom school attendance is compulsory, except individuals who are eligible for the Cal-Learn Program under Article 3.5 (commencing with Section 11331), for any period during which that article is

operative, and children subject to a county school attendance project under Article 2 (commencing with Section 18236) of Chapter 3.3 of Part 6, shall be required to attend school pursuant to subdivision (f).

(b) Applicants for and recipients of aid under this chapter shall be informed of the attendance requirement in subdivision (a) and it shall be included in the recipients' welfare-to-work plan under Section 11325.21.

(c) A recipient shall cooperate in providing the county with documentation routinely available from the school or school district of regular attendance of all ~~applicable~~ children described in subdivision (a) in the assistance unit when the county determines it is appropriate, unless there is good cause for the inability to secure that documentation.

(d) If it is determined by the county that any child in the assistance unit is not attending school as required by subdivision (a), the family may be informed of how to enroll the child in a continuation school within the county and may be screened to determine eligibility for family stabilization services pursuant to Section 11325.24 and in accordance with county policy and procedures. If applicable, the county shall document that the family was given this information and was screened for those services. The needs of a child in the assistance unit who is 16 years of age or older shall not be considered in computing the grant of the family under Section 11450 for any month in which the county is informed by a school district or a county school attendance review board that the child did not attend school pursuant to subdivision (f), unless at least one of the following conditions is present:

(1) The county is provided with evidence that the child's attendance records are not available.

(2) The county is provided with evidence that the child has been attending school.

(3) Good cause for school nonparticipation exists at any time during the month.

(4) Any member of the household is eligible to participate in family stabilization pursuant to Section 11325.24.

(5) The county is provided with evidence that the child, parent, or caregiver is complying with requirements imposed by a school attendance review board, the county probation department, or the

district attorney pursuant to Section 48263 or 48263.5 of the Education Code.

(6) A member of the household is cooperating with a plan developed by a county child welfare agency.

(e) A child whose needs have not been considered in computing the grant of the family pursuant to this section shall remain eligible for services that may lead to attendance in school.

(f) For the purposes of this section, a child shall be presumed to be attending school unless he or she has been deemed a chronic truant pursuant to Section 48263.6 of the Education Code.

SEC. 581. Section 11325.24 of the Welfare and Institutions Code is amended to read:

11325.24. (a) If, in the course of appraisal pursuant to Section 11325.2 or at any point during an individual's participation in welfare-to-work activities in accordance with paragraph (1) of subdivision (a) of Section 11322.85, it is determined that a recipient meets the criteria described in subdivision (b), the recipient ~~shall be~~ *is* eligible to participate in family stabilization.

(b) (1) A recipient ~~shall be~~ *is* eligible to participate in family stabilization if the county determines that his or her family is experiencing an identified situation or crisis that is destabilizing the family and would interfere with participation in welfare-to-work activities and services.

(2) A situation or a crisis that is destabilizing the family in accordance with paragraph (1) may include, but shall not be limited to:

(A) Homelessness or imminent risk of homelessness.

(B) A lack of safety due to domestic violence.

(C) Untreated or undertreated behavioral needs, including mental health or substance abuse-related needs.

(c) Family stabilization shall include intensive case management and services designed to support the family in overcoming the situation or crisis, which may include, but are not limited to, welfare-to-work activities.

(d) Funds allocated for family stabilization in accordance with this section shall be in addition to, and independent of, the county allocations made pursuant to Section 15204.2.

(e) Funds allocated for family stabilization in accordance with this section, or the county allocations made pursuant to Section 15204.2, may be used to provide housing and other needed services

to a family during any month that a family is participating in family stabilization.

(f) Each county shall submit to the department a plan, as defined by the department, regarding how it intends to implement the provisions of this section and shall report information to the department, including, but not limited to, the number of recipients served pursuant to this section, information regarding the services provided, outcomes for the families served, and any lack of availability of services. The department shall provide an update regarding this information to the Legislature during the 2014–15 budget process.

(g) It is the intent of the Legislature that family stabilization ~~is~~ *be* a voluntary component intended to provide needed services and constructive interventions for parents and to assist in barrier removal for families facing very difficult needs. Participants in family stabilization are encouraged to participate, but the Legislature does not intend that parents be sanctioned as part of their experience in this program component. The Legislature further intends that recipients refusing or unable to follow their family stabilization plans without good cause be returned to the traditional welfare-to-work program.

SEC. 582. Section 11363 of the Welfare and Institutions Code is amended to read:

11363. (a) Aid in the form of state-funded Kin-GAP shall be provided under this article on behalf of any child under 18 years of age and to any eligible youth under 19 years of age as provided in Section 11403, who satisfies all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300, or, effective October 1, 2006, a ward of the juvenile court pursuant to Section 601 or 602.

(2) Has been residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement.

(3) Has had a kinship guardianship established pursuant to Section 360 or 366.26.

(4) Has had his or her dependency jurisdiction terminated after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision ~~(d)~~ *(e)* of Section 728,

concurrently or subsequently to the establishment of the kinship guardianship.

(b) If the conditions specified in subdivision (a) are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court, after holding a hearing, orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

(c) A child or nonminor former dependent or ward shall be eligible for Kin-GAP payments if he or she meets one of the following age criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a physical or mental disability that warrants the continuation of assistance.

(3) Through December 31, 2011, he or she satisfies the conditions of Section 11403, and on and after January 1, 2012, he or she satisfies the conditions of Section 11403.01.

(4) He or she satisfies the conditions as described in subdivision (d).

(d) Commencing January 1, 2012, state-funded Kin-GAP payments shall continue for youths who have attained 18 years of age and who are under 19 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(e) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP unless the conditions in

Section 11403 apply; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of six months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Sections 361.3 and 361.4 and the court terminates dependency jurisdiction. When a nonminor former dependent is receiving Kin-GAP after 18 years of age and the nonminor former dependent's former guardian dies, the nonminor former dependent may petition the court for a hearing pursuant to ~~subdivision (e) of~~ Section ~~388.~~ *388.1*.

SEC. 583. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. (a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. Effective January 1, 2012, these nonminor dependents shall be eligible to receive support up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, consistent with their transitional independent living case plan and as described in Section 10103.5. It is the intent of the Legislature both at the time of initial determination of the nonminor dependent's eligibility and throughout the time the nonminor dependent is eligible for aid pursuant to this section, that the social worker or probation officer or Indian tribal placing entity and the nonminor dependent shall work together to ensure the nonminor dependent's ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker, probation officer, or Indian tribe, with the nonminor dependent assuming increasing levels of responsibility and independence.

(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet

the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant to Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253 or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4. Effective January 1, 2012, a nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 and who satisfies the criteria set forth in subdivision (a) shall be eligible to continue to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision ~~shall apply~~ *applies* when one or more of the following conditions exist:

(1) The nonminor is completing secondary education or a program leading to an equivalent credential.

(2) The nonminor is enrolled in an institution which provides postsecondary or vocational education.

(3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.

(4) The nonminor is employed for at least 80 hours per month.

(5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. The requirement to update the case plan under this section shall not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments.

(c) The county child welfare or probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1, shall work together with a nonminor dependent who is in foster care on his or her 18th birthday and thereafter or a nonminor former dependent receiving aid pursuant to Section 11405, to satisfy one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) and shall certify the nonminor's applicable

condition or conditions in the nonminor's six-month transitional independent living case plan update, and provide the certification to the eligibility worker and to the court at each six-month case plan review hearing for the nonminor dependent. Relative guardians who receive Kin-GAP payments and adoptive parents who receive adoption assistance payments shall be responsible for reporting to the county welfare agency that the nonminor does not satisfy at least one of the conditions described in subdivision (b). The social worker, probation officer, or tribal entity shall verify and obtain assurances that the nonminor dependent continues to satisfy at least one of the conditions in paragraphs (1) to (5), inclusive, of subdivision (b) at each six-month transitional independent living case plan update. The six-month case plan update shall certify the nonminor's eligibility pursuant to subdivision (b) for the next six-month period. During the six-month certification period, the payee and nonminor shall report any change in placement or other relevant changes in circumstances that may affect payment. The nonminor dependent, or nonminor former dependent receiving aid pursuant to subdivision (e) of Section 11405, shall be informed of all due process requirements, in accordance with state and federal law, prior to an involuntary termination of aid, and shall simultaneously be provided with a written explanation of how to exercise his or her due process rights and obtain referrals to legal assistance. Any notices of action regarding eligibility shall be sent to the nonminor dependent or former dependent, his or her counsel, as applicable, and the placing worker, in addition to any other payee. Payments of aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, or aid pursuant to subdivision (e) of Section 11405 that are made on behalf of a nonminor former dependent shall terminate subject to the terms of the agreements. Subject to federal approval of amendments to the state plan, aid payments may be suspended and resumed based on changes of circumstances that affect eligibility. Nonminor former dependents, as identified in paragraph (2) of subdivision (aa) of Section 11400, are not eligible for reentry under subdivision (e) of Section 388 as nonminor dependents under the jurisdiction of the juvenile court, ~~unless~~ *but may be eligible for reentry pursuant to Section 388.1 if*

(1) the nonminor former dependent was receiving aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), ~~or~~ the nonminor former dependent was receiving aid pursuant to subdivision (e) of Section 11405, or the nonminor was receiving adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 3, and (2) the nonminor's former guardian or adoptive parent dies, or no longer provides ongoing support to, and no longer receives benefits on behalf of, the nonminor after the nonminor turns 18 years of age but before the nonminor turns 21 years of age. Nonminor former dependents requesting the resumption of AFDC-FC payments pursuant to subdivision (e) of Section 11405 shall complete the applicable portions of the voluntary reentry agreement, as described in subdivision (z) of Section 11400.

(d) A nonminor dependent may receive all of the payment directly provided that the nonminor is living independently in a supervised placement, as described in subdivision (w) of Section 11400, and that both the youth and the agency responsible for the foster care placement have signed a mutual agreement, as defined in subdivision (u) of Section 11400, if the youth is capable of making an informed agreement, that documents the continued need for supervised out-of-home placement, and the nonminor's and social worker's or probation officer's agreement to work together to facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(e) Eligibility for aid under this section shall not terminate until the nonminor dependent attains the age criteria, as set forth in subdivision (a), but aid may be suspended when the nonminor dependent no longer resides in an eligible facility, as described in Section 11402, or is otherwise not eligible for AFDC-FC benefits under Section 11401, or terminated at the request of the nonminor, or after a court terminates dependency jurisdiction pursuant to Section 391, delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452. AFDC-FC benefits to nonminor dependents, may be resumed at the request of the nonminor by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, before or after the filing of a petition filed pursuant to subdivision (e) of Section 388 after a court terminates dependency or transitional jurisdiction

pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2. The county welfare or probation department or Indian tribal entity that has entered into an agreement pursuant to Section 10553.1 shall complete the voluntary reentry agreement with the nonminor who agrees to satisfy the criteria of the agreement, as described in subdivision (z) of Section 11400. The county welfare department or tribal entity shall establish a new child-only Title IV-E eligibility determination based on the nonminor's completion of the voluntary reentry agreement pursuant to Section 11401. The beginning date of aid for either federal or state AFDC-FC for a reentering nonminor who is placed in foster care is the date the voluntary reentry agreement is signed or the nonminor is placed, whichever is later. The county welfare department, county probation department, or tribal entity shall provide a nonminor dependent who wishes to continue receiving aid with the assistance necessary to meet and maintain eligibility.

(f) (1) The county having jurisdiction of the nonminor dependent shall remain the county of payment under this section regardless of the youth's physical residence. Nonminor former dependents receiving aid pursuant to subdivision (e) of Section 11405 shall be paid by their county of residence. Counties may develop courtesy supervision agreements to provide case management and independent living services by the county of residence pursuant to the nonminor dependent's transitional independent living case plan. Placements made out of state are subject to the applicable requirements of the Interstate Compact on Placement of Children, pursuant to Part 5 (commencing with Section 7900) of Division 12 of the Family Code.

(2) The county welfare department, county probation department, or tribal entity shall notify all foster youth who attain 16 years of age and are under the jurisdiction of that county or tribe, including those receiving Kin-GAP, and AAP, of the existence of the aid prescribed by this section.

(3) The department shall seek any waiver to amend its Title IV-E State Plan with the Secretary of the United States Department of Health and Human Services necessary to implement this section.

(g) (1) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of extending aid pursuant to this section to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the county,

including AFDC-FC payments pursuant to Section 11401, aid pursuant to Kin-GAP under Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, and aid pursuant to Section 11405 for nonminor dependents who are residing in the county as provided in paragraph (1) of subdivision (f). A county shall contribute to the CalWORKs payments pursuant to Section 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) at the statutory sharing ratios in effect on January 1, 2012.

(2) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of providing permanent placement services pursuant to subdivision (c) of Section 16508 and administering the Aid to Families with Dependent Children Foster Care program pursuant to Section 15204.9. For purposes of budgeting, the department shall use a standard for the permanent placement services that is equal to the midpoint between the budgeting standards for family maintenance services and family reunification services.

(3) (A) (i) Notwithstanding any other law, a county's required total contribution pursuant to paragraphs (1) and (2), excluding costs incurred pursuant to Section 10103.5, shall not exceed the amount of savings in Kin-GAP assistance grant expenditures realized by the county from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385), and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011, plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

(ii) A county, at its own discretion, may expend additional funds beyond the amounts identified in clause (i). These additional amounts shall not be included in any cost and savings calculations or comparisons performed pursuant to this section.

(B) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the

Government Code. In addition, the following are available to the counties for the purpose of funding costs pursuant to this section:

(i) The savings in Kin-GAP assistance grant expenditures realized from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385).

(ii) The savings realized from the change in federal funding for adoption assistance resulting from the enactment of Public Law 110-351 and consistent with subdivision (d) of Section 16118.

(4) (A) The limit on the county's total contribution pursuant to paragraph (3) shall be assessed by the State Department of Social Services, in conjunction with the California State Association of Counties, in 2015–16, to determine if it shall be removed. The assessment of the need for the limit shall be based on a determination on a statewide basis of whether the actual county costs of providing extended care pursuant to this section, excluding costs incurred pursuant to Section 10103.5, are fully funded by the amount of savings in Kin-GAP assistance grant expenditures realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

(B) If the assessment pursuant to subparagraph (A) shows that the statewide total costs of extending aid pursuant to this section, excluding costs incurred pursuant to Section 10103.5, are fully funded by the amount of savings in Kin-GAP assistance grant expenditures realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section, the Department of Finance shall certify that fact, in writing, and shall post the certification on its Internet Web site, at which time subparagraph (A) of paragraph (3) shall no longer be implemented.

(h) It is the intent of the Legislature that ~~no~~ *a* county currently participating in the Child Welfare Demonstration Capped Allocation Project *not* be adversely impacted by the department's exercise of its option to extend foster care benefits pursuant to Section 673(a)(4) and Section 675(8) of Title 42 of the United States Code in the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). Therefore, the department shall negotiate with the United States Department of Health and Human Services on behalf of those counties that are currently participating in the demonstration project to ensure that those counties receive reimbursement for these new programs outside of the provisions of those counties' waiver under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(i) The department, on or before July 1, 2013, shall develop regulations to implement this section in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, and researchers. In the development of these regulations, the department shall consider its Manual of Policy and Procedures, Division 30, Chapter 30-912, 913, 916, and 917, as guidelines for developing regulations that are appropriate for young adults who can exercise incremental responsibility concurrently with their growth and development. The department, in its consultation with stakeholders, shall take into consideration the impact to the Automated Child Welfare Services Case Management Services (CWS-CMS) and required modifications needed to accommodate eligibility determination under this section, benefit issuance, case management across counties, and recognition of the legal status of nonminor dependents as adults, as well as changes to data tracking and reporting requirements as required by the Child Welfare System Improvement and Accountability Act as specified in Section 10601.2, and federal outcome measures as required by the federal John H. Chafee Foster Care Independence Program (42 U.S.C.

Sec. 677(f)). In addition, the department, in its consultation with stakeholders, shall define the supervised independent living setting which shall include, but not be limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings, and define how those settings meet health and safety standards suitable for nonminors. The department, in its consultation with stakeholders, shall define the six-month certification of the conditions of eligibility pursuant to subdivision (b) to be consistent with the flexibility provided by federal policy guidance, to ensure that there are ample supports for a nonminor to achieve the goals of his or her transition independent living case plan. The department, in its consultation with stakeholders, shall ensure that notices of action and other forms created to inform the nonminor of due process rights and how to access them shall be developed, using language consistent with the special needs of the nonminor dependent population.

(j) Notwithstanding 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 shall prepare for implementation of the applicable provisions of this section by publishing, after consultation with the stakeholders listed in subdivision (i), all-county letters or similar instructions from the director by October 1, 2011, to be effective January 1, 2012. Emergency regulations to implement the applicable provisions of this act may be adopted by the director in accordance with the Administrative Procedure Act. The initial adoption of the emergency regulations and one readoption of the emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency 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 shall remain in effect for no more than 180 days.

SEC. 584. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated *as* the single

organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments or Indian tribes, consortia of tribes, or tribal organizations that have entered into an agreement *with the department* pursuant to Section 10553.1.

(b) "Care and supervision" includes food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which he or she is enrolled at the time of placement. Reimbursement for the costs of educational travel, as provided for in this subdivision, shall be made pursuant to procedures determined by the department, in consultation with representatives of county welfare and probation directors, and additional stakeholders, as appropriate.

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider ~~which~~ *that* are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish the maximum level of state participation in out-of-state foster care group home program rates effective January 1, 1992.

(1) The department shall develop regulations that establish the method for determining the level of state participation for each out-of-state group home program. The department shall consider all of the following methods:

(A) A standardized system based on the level of care and services per child per month as detailed in Section 11462.

(B) A system ~~which~~ *that* considers the actual allowable and reasonable costs of care and supervision incurred by the program.

(C) A system ~~which~~ *that* considers the rate established by the host state.

(D) Any other appropriate methods as determined by the department.

(2) State reimbursement for the AFDC-FC group home rate to be paid to an out-of-state program on or after January 1, 1992,

shall only be paid to programs which have done both of the following:

(A) Submitted a rate application to the department and received a determination of the level of state participation.

(i) The level of state participation shall not exceed the current fiscal year's standard rate for rate classification level 14.

(ii) The level of state participation shall not exceed the rate determined by the ratesetting authority of the state in which the facility is located.

(iii) The level of state participation shall not decrease for any child placed prior to January 1, 1992, who continues to be placed in the same out-of-state group home program.

(B) Agreed to comply with information requests, and program and fiscal audits as determined necessary by the department.

(3) State reimbursement for an AFDC-FC rate paid on or after January 1, 1993, shall only be paid to a group home organized and operated on a nonprofit basis.

(d) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This ~~shall apply~~ *subdivision applies* regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(e) ~~Nothing shall preclude a~~ *A* county *is not precluded* from using a portion of its county funds to increase rates paid to family homes and foster family agencies within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county's expense.

(f) ~~Nothing shall preclude a~~ *A* county *is not precluded* from providing a supplemental rate to serve commercially sexually exploited foster children to provide for the additional care and supervision needs of these children. To the extent that federal financial participation is available, it is the intent of the Legislature that the federal funding ~~shall~~ be utilized.

SEC. 585. Section 11461.3 of the Welfare and Institutions Code is amended to read:

11461.3. (a) The Approved Relative Caregiver Funding Option Program is hereby established for the purpose of making the

amount paid to approved relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments. This is an optional program for counties choosing to participate, and in so doing, participating counties agree to the terms of this section as a condition of their participation. It is the intent of the Legislature that the funding described in paragraph (1) of subdivision (e) for the Approved Relative Caregiver Funding Option Program be ~~appropriated,~~ *appropriated* and available for use from January through December of each year, unless otherwise specified.

(b) Subject to subdivision (c), effective January 1, 2015, counties shall pay an approved relative caregiver a per child per month rate in return for the care and supervision, as defined in subdivision (b) of Section 11460, of a child that is placed with the relative caregiver that is equal to the basic rate paid to foster care providers pursuant to subdivision (g) of Section 11461, if both of the following conditions are met:

(1) The county with payment responsibility ~~has~~ notified the department in writing by October 1 of the year before participation begins of its decision to participate in the Approved Relative Caregiver Funding Option Program.

(2) The related child placed in the home meets all of the following requirements:

(A) The child resides in the State of California.

(B) The child is described by subdivision (b), (c), or (e) of Section 11401 and the county welfare department or the county probation department is responsible for the placement and care of the child.

(C) The child is not eligible for AFDC-FC while placed with the approved relative caregiver because the child is not eligible for federal financial participation in the AFDC-FC payment.

(c) A county's election to participate in the Approved Relative Caregiver Funding Option Program shall affirmatively indicate that the county understands and agrees to all of the following conditions:

(1) Commencing October 1, 2014, the county shall notify the department in writing of its decision to participate in the Approved Relative Caregiver Funding Option Program. Failure to make timely notification, without good cause as determined by the

department, shall preclude the county from participating in the program for the upcoming year. Annually thereafter, any county not presently participating who elects to do so shall notify the department in writing no later than October 1 of its decision to participate for the upcoming calendar year.

(2) The county shall confirm that it will make per child per month payments to all approved relative caregivers on behalf of eligible children in the amount specified in subdivision (b) for the duration of the participation of the county in this program.

(3) The county shall confirm that it will be solely responsible to pay any additional costs needed to make all payments pursuant to subdivision (b) if the state and federal funds allocated to the Approved Relative Caregiver Funding Option Program pursuant to paragraph (1) of subdivision (e) are insufficient to make all eligible payments.

(d) (1) A county deciding to opt out of the Approved Relative Caregiver Funding Option Program shall provide at least 120 days' prior written notice of that decision to the department. Additionally, the county shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced and the date that the reduction will occur.

(2) The department shall presume all counties have opted out of the Approved Relative Caregiver Funding Option Program if the funding appropriated in subclause (II) of clause (i) of subparagraph (B) of paragraph (1) of subdivision (e), including any additional funds appropriated pursuant to clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e), is reduced, unless a county notifies the department in writing of its intent to opt in within 60 days of enactment of the State Budget. The counties shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

(3) ~~Any~~ *A* reduction in payments received by an approved relative caregiver on behalf of a child under this section that results from a decision by a county, including the presumed opt-out pursuant to paragraph (2), to not participate in the Approved Relative Caregiver Funding Option Program shall be exempt from state hearing jurisdiction under Section 10950.

(e) (1) The following funding shall be used for the Approved Relative Caregiver Funding Option Program:

(A) The applicable regional per-child CalWORKs grant.

(B) (i) General Fund resources that do not count toward the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code. For this purpose, the following money is hereby appropriated:

(I) The sum of thirty million dollars ($30,000,000) from the General Fund for the period January 1, 2015, through December 31, 2015.

(II) The sum of thirty million dollars ($30,000,000) from the General Fund in each calendar year thereafter, as cumulatively adjusted annually by the California Necessities Index used for each May Revision of the Governor's Budget, to be used in each respective calendar year.

(ii) To the extent that the appropriation made in subclause (I) *of clause (i)* is insufficient to fully fund the base caseload of approved relative caregivers as of July 1, 2014, for the period of time described in subclause (I) *of clause (i)*, as jointly determined by the department and the County Welfare ~~Directors'~~ *Directors* Association and approved by the Department of Finance on or before October 1, 2015, the amounts specified in subclauses (I) and (II) *of clause (i)* shall be increased in the respective amounts necessary to fully fund that base caseload. Thereafter, the adjusted amount of subclause (II) *of clause (i)*, and the other terms of that provision, including an annual California Necessities Index adjustment to its amount, shall apply.

(C) County funds only to the extent required under paragraph (3) of subdivision (c).

(D) This section is intended to appropriate the funding necessary to fully fund the base caseload of approved relative caregivers, defined as the number of approved relative caregivers caring for a child who is not eligible to receive AFDC-FC payments, as of July 1, 2014.

(2) Funds available pursuant to subparagraphs (A) and (B) of paragraph (1) shall be allocated to participating counties proportionate to the number of their approved relative caregiver placements, using a methodology and timing developed by the department, following consultation with county human services agencies and their representatives.

(3) Notwithstanding subdivision (c), if in any calendar year the entire amount of funding appropriated by the state for the Approved Relative Caregiver Funding Option Program has not been fully allocated to, or utilized by, counties, a county that has paid any funds pursuant to subparagraph (C) of paragraph (1) of subdivision (e) may request reimbursement for those funds from the department. The authority of the department to approve the requests shall be limited by the amount of available unallocated funds.

(f) An approved relative caregiver receiving payments on behalf of a child pursuant to this section shall not be eligible to receive additional CalWORKs payments on behalf of the same child under Section 11450.

(g) To the extent permitted by federal law, payments received by the approved relative caregiver from the Approved Relative Caregiver Funding Option Program shall not be considered income for the purpose of determining other public benefits.

(h) Prior to referral of any individual or recipient, or that person's case, to the local child support agency for child support services pursuant to Section 17415 of the Family Code, the county human services agency shall determine if an applicant or recipient has good cause for noncooperation, as set forth in Section 11477.04. If the applicant or recipient claims good cause exception at any subsequent time to the county human services agency or the local child support agency, the local child support agency shall suspend child support services until the county social services agency determines the good cause claim, as set forth in Section 11477.04. If good cause is determined to exist, the local child support agency shall suspend child support services until the applicant or recipient requests their resumption, and shall take other measures that are necessary to protect the applicant or recipient and the children. If the applicant or recipient is the parent of the child for whom aid is sought and the parent is found to have not cooperated without good cause as provided in Section 11477.04, the applicant's or recipient's family grant shall be reduced by 25 percent for the time the failure to cooperate lasts.

(i) Consistent with Section 17552 of the Family Code, if aid is paid under this chapter on behalf of a child who is under the jurisdiction of the juvenile court and whose parent or guardian is receiving reunification services, the county human services agency shall determine, prior to referral of the case to the local child

support agency for child support services, whether the referral is in the best interest of the child, taking into account both of the following:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

SEC. 586. Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall do all of the following:

(a) (1) Do either of the following:

~~(i)~~

(A) For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter ~~shall operate~~ *operates* as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

~~(ii)~~

(B) For applications received on or after October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. The assignment shall apply only to support that accrues during the period of time that

the applicant is receiving assistance under this chapter, and shall not exceed the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(2) Support that has been assigned pursuant to paragraph (1) and that accrues while the family is receiving aid under this chapter shall be permanently assigned until the entire amount of aid paid has been reimbursed.

(3) If the federal government does not permit states to adopt the same order of distribution for preassistance and postassistance child support arrears that are assigned on or after October 1, 1998, support arrears that accrue before the family receives aid under this chapter that are assigned pursuant to this subdivision shall be assigned as follows:

(A) Child support assigned prior to January 1, 1998, shall be permanently assigned until aid is no longer received and the entire amount of aid has been reimbursed.

(B) Child support assigned on or after January 1, 1998, but prior to October 1, 2000, shall be temporarily assigned until aid under this chapter is no longer received and the entire amount of aid paid has been reimbursed or until October 1, 2000, whichever comes first.

(C) On or after October 1, 2000, support assigned pursuant to this subdivision that was not otherwise permanently assigned shall be temporarily assigned to the county until aid is no longer received.

(D) On or after October 1, 2000, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(4) If the federal government permits states to adopt the same order of distribution for preassistance and postassistance child support arrears, child support arrears shall be assigned, as follows:

(A) Child support assigned pursuant to this subdivision prior to October 1, 1998, shall be assigned until aid under this chapter is no longer received and the entire amount has been reimbursed.

(B) On or after October 1, 1998, child support assigned pursuant to this subdivision that accrued before the family receives aid under this chapter and that was not otherwise permanently assigned, shall be temporarily assigned until aid under this chapter is no longer received.

(C) On or after October 1, 1998, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(b) (1) Cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception pursuant to Section 11477.04. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, ~~if the applicant~~ completes the necessary forms, and agrees to cooperate with the local child support agency in securing support and determining paternity, if applicable. The local child support agency shall have staff available, in person or by telephone, at all county welfare offices and shall conduct an interview with each applicant to obtain information necessary to establish paternity and establish, modify, or enforce a support order at the time of the initial interview with the welfare office. The local child support agency shall make the determination of cooperation. If the applicant or recipient attests under penalty of perjury that he or she cannot provide the information required by this subdivision, the local child support agency shall make a finding regarding whether the individual could reasonably be expected to provide the information before the local child support agency determines whether the individual is cooperating. In making the finding, the local child support agency shall consider all of the following:

(A) The age of the child for whom support is sought.

(B) The circumstances surrounding the conception of the child.

(C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.

(D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.

(2) Cooperation includes all of the following:

(A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

(B) Appearing at interviews, hearings, and legal proceedings, provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.

(C) If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.

(D) Providing any additional information known to, or reasonably obtainable by, the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.

(3) A recipient or applicant shall not be required to sign a voluntary declaration of paternity, as set forth in Chapter 3 (commencing with Section 7570) of Part 2 of Division 12 of the Family Code, as a condition of cooperation.

(c) (1) This section ~~shall~~ *does* not apply if all of the adults are excluded from the assistance unit pursuant to Section 11251.3, 11454, or 11486.5.

(2) It is the intent of the Legislature that the regular receipt of child support in the preceding reporting period be considered in determining reasonably anticipated income for the following reporting period.

(3) In accordance with Sections 11265.2 and 11265.46, if the income of an assistance unit described in paragraph (1) includes reasonably anticipated income derived from child support, the amount established in Section 17504 of the Family Code and Section 11475.3 of the Welfare and Institutions Code of any amount of child support received each month shall not be considered income or resources and shall not be deducted from

the amount of aid to which the assistance unit otherwise would be eligible.

SEC. 587. Section 12104 of the Welfare and Institutions Code, as added by Section 3 of Chapter 27 of the 3rd Extraordinary Session of the Statutes of 2009, is repealed.

~~12104. Notwithstanding any other provision of law, upon the order of the Director of Finance, the Director of Social Services shall defer all supplemental payments to the federal government required pursuant to subdivision (b) of Section 12100 in February 2010 and March 2010 and, instead, make payments for those months after April 20, 2010, but no later than May 31, 2010.~~

SEC. 588. Section 12104 of the Welfare and Institutions Code, as added by Section 5 of Chapter 633 of the Statutes of 2009, is amended to read:

12104. Notwithstanding any other ~~provision of~~ law, upon the order of the Director of Finance, the Director of Social Services shall defer all supplemental payments to the federal government required pursuant to subdivision (b) of Section 12100 in February 2010 and March 2010 and, instead, make payments for those months after April 20, 2010, but no later than May 31, 2010.

SEC. 589. Section 12300.4 of the Welfare and Institutions Code is amended to read:

12300.4. (a) Notwithstanding any other law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and Title 23 (commencing with Section 110000) of the Government Code, a recipient who is authorized to receive in-home supportive services pursuant to this article, or Section 14132.95, 14132.952, or 14132.956, administered by the State Department of Social Services, or waiver personal care services pursuant to Section 14132.97, administered by the State Department of Health Care Services, or any combination of these services, shall direct these authorized services, and the authorized services shall be performed by a provider or providers within a workweek and in a manner that complies with the requirements of this section.

(b) (1) A workweek is defined as beginning at 12:00 a.m. on Sunday and includes the next consecutive 168 hours, terminating at 11:59 p.m. the following Saturday.

(2) A provider of services specified in subdivision (a) shall not work a total number of hours within a workweek that exceeds 66,

as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, and in accordance with subdivision (d). The total number of hours worked within a workweek by a provider is defined as the sum of the following:

(A) All hours worked providing authorized services specified in subdivision (a).

(B) Travel time as defined in subdivision (f), only if federal financial participation is not available to compensate for that travel time. If federal financial participation is available for travel time as defined in subdivision (f), the travel time shall not be included in the calculation of the total weekly hours worked within a workweek.

(3) (A) If the authorized in-home supportive services of a recipient cannot be provided by a single provider as a result of the limitation specified in paragraph (2), it is the responsibility of the recipient to employ an additional provider or providers, as needed, to ensure his or her authorized services are provided within his or her total weekly authorized hours of services established pursuant to subdivision (b) of Section 12301.1.

(B) (i) It is the intent of the Legislature that this section ~~shall~~ not result in reduced services authorized to recipients of waiver personal care services defined in subdivision (a).

(ii) The State Department of Health Care Services shall work with and assist recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver who are at or near their individual cost cap, as that term is used in the waiver, to avoid a reduction in the recipient's services that may result because of increased overtime pay for providers. As part of this effort, the department shall consider allowing the recipient to exceed the individual cost cap, if appropriate. The department shall provide timely information to waiver recipients as to the steps that will be taken to implement this clause.

(4) (A) A provider shall inform each of his or her recipients of the number of hours that the provider is available to work for that recipient, in accordance with this section.

(B) A recipient, his or her authorized representative, or any other entity, including any person or entity providing services pursuant to Section 14186.35, shall not authorize any provider to work hours that exceed the applicable limitation or limitations of this section.

(C) A recipient may authorize a provider to work hours in excess of the recipient's weekly authorized hours established pursuant to Section 12301.1 without notification of the county welfare department, in accordance with both of the following:

(i) The authorization does not result in more than 40 hours of authorized services per week being provided.

(ii) The authorization does not exceed the recipient's authorized hours of monthly services pursuant to paragraph (1) of subdivision (b) of Section 12301.1.

(5) For providers of in-home supportive services, the State Department of Social Services or a county may terminate the provider from providing services under the IHSS program if a provider continues to violate the limitations of this section on multiple occasions.

(c) Notwithstanding any other law, only federal law and regulations regarding overtime compensation apply to providers of services defined in subdivision (a).

(d) A provider of services defined in subdivision (a) is subject to all of the following, as applicable to his or her situation:

(1) (A) A provider who works for one individual recipient of those services shall not work a total number of hours within a workweek that exceeds 66 hours, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable. In no circumstance shall the provision of these services by that provider to the individual recipient exceed the total weekly hours of the services authorized to that recipient, except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b). If multiple providers serve the same recipient, it shall continue to be the responsibility of that recipient or his or her authorized representative to schedule the work of his or her providers to ensure the authorized services of the recipient are provided in accordance with this section.

(B) When a recipient's weekly authorized hours are adjusted pursuant to subparagraph (C) of paragraph (1) of subdivision (b) of Section 12301.1 and exceed 66 hours, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, and at the time of adjustment the recipient currently receives all authorized hours of service from one provider, that provider shall be deemed authorized to work the recipient's county-approved adjusted hours for that week, but only if the

additional hours of work, based on the adjustment, do not exceed the total number of hours worked that are compensable at an overtime pay rate that the provider would have been authorized to work in that month if the weekly hours had not been adjusted.

(2) A provider of in-home supportive services described in subdivision (a) who serves multiple recipients is not authorized to, and shall not, work more than 66 total hours in a workweek, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, regardless of the number of recipients for whom the provider provides services authorized by subdivision (a). Providers are subject to the limits of each recipient's total authorized weekly hours of in-home supportive services described in subdivision (a), except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b).

(e) Recipients and providers shall be informed of the limitations and requirements contained in this section, through notices at intervals and on forms as determined by the State Department of Social Services or the State Department of Health Care Services, as applicable, following consultation with stakeholders.

(f) (1) A provider of services described in subdivision (a) shall not engage in travel time in excess of seven hours per week. For ~~the~~ purposes of this subdivision, "travel time" means time spent traveling directly from a location where authorized services specified in subdivision (a) are provided to one ~~recipient,~~ *recipient* to another location where authorized services are to be provided to another recipient. A provider shall coordinate hours of work with his or her recipients to comply with this section.

(2) The hourly wage to compensate a provider for travel time described in this subdivision when the travel is between two counties shall be the hourly wage of the destination county.

(3) Travel time, and compensation for that travel time, between a recipient of authorized in-home supportive services specified in subdivision (a) and a recipient of authorized waiver personal care services specified in subdivision ~~(a),~~ *(a)* shall be attributed to the program authorizing services for the recipient to whom the provider is traveling.

(4) Hours spent by a provider while engaged in travel time shall not be deducted from the authorized hours of service of any recipient of services specified in subdivision (a).

(5) The State Department of Social Services and the State Department of Health Care Services shall issue guidance and processes for travel time between recipients that will assist the provider and recipient to comply with this subdivision. Each county shall provide technical assistance to providers and recipients, as necessary, to implement this subdivision.

(g) A provider of authorized in-home supportive services specified in subdivision (a) shall timely submit, deliver, or mail, verified by postmark or request for delivery, a signed payroll timesheet within two weeks after the end of each bimonthly payroll period. Notwithstanding any other law, a provider who submits an untimely payroll timesheet for providing authorized in-home supportive services specified in subdivision (a) shall be paid by the state within 30 days of the receipt of the signed payroll timesheet.

(h) This section does not apply to a contract entered into pursuant to Section 12302 or 12302.6 for authorized in-home supportive services. Contract rates negotiated pursuant to Section 12302 or 12302.6 shall be based on costs consistent with a 40-hour workweek.

(i) The state and counties are immune from any liability resulting from implementation of this section.

(j) Any action authorized under this section that is implemented in a program authorized pursuant to Section 14132.95, ~~14132.97, 14132.952, or~~ 14132.956, *or 14132.97* shall be compliant with federal Medicaid requirements, as determined by the State Department of Health Care Services.

(k) 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 State Department of Social Services and the State Department of Health Care Services may implement, interpret, or make specific this section by means of all-county letters or similar instructions, without taking any regulatory action.

(*l*) (1) This section shall become operative only when the regulatory amendments made by RIN 1235-AA05 to Part 552 of Title 29 of the Code of Federal Regulations are deemed effective, either on the date specified in RIN 1235-AA05 or at a later date specified by the ~~Federal~~ *United States* Department of Labor, whichever is later.

(2) If the regulatory amendments described in paragraph (1) become only partially effective by the date specified in paragraph (1), this section shall become operative only for those persons for whom federal financial participation is available as of that date.

SEC. 590. Section 12300.41 of the Welfare and Institutions Code is amended to read:

12300.41. (a) For three months following the effective date specified in paragraph (1) of subdivision (*l*) of Section 12300.4, timesheets submitted by providers may be paid in excess of the limitations specified in Section 12300.4, so long as the number of hours worked by the provider within a month do not exceed the authorized hours of the recipient or recipients served by that provider.

(b) The State Department of Social Services, in consultation with stakeholders, shall oversee a study of the implementation of Section 12300.4, Section 12301.1, and this section. This study shall cover the 24-month period subsequent to the three-month period specified in subdivision (a). Information collected for the study shall periodically be made available to stakeholders, including, but not limited to, representatives of recipients and providers, counties, and the legislative staff. Upon completion of the study, a report shall be submitted to the Legislature.

(c) Using the study described in (b), it is the intent of the Legislature to evaluate implementation of the federal regulations described in paragraph (1) of subdivision (*l*) of Section 12300.4 and make any adjustments determined appropriate or necessary through subsequent legislation.

SEC. 591. Section 12301.1 of the Welfare and Institutions Code is amended to read:

12301.1. (a) The department shall adopt regulations establishing a uniform range of services available to all eligible recipients based upon individual needs. The availability of services under these regulations is subject to the provisions of Section 12301 and county plans developed pursuant to Section 12302.

(b) (1) The county welfare department shall assess each recipient's continuing monthly need for in-home supportive services at varying intervals as necessary, but at least once every 12 months. The results of this assessment of monthly need for hours of in-home supportive services shall be divided by 4.33, to establish a recipient's weekly authorized number of hours of

in-home supportive services, subject to any of the following, as applicable:

(A) Within the limit of the assessed monthly need for hours of in-home supportive services, a county welfare department may adjust the authorized weekly hours of a recipient for any particular week for known recurring or periodic needs of the recipient.

(B) Within the limit of the assessed monthly need for hours of in-home supportive services, a county welfare department may temporarily adjust the authorized weekly hours of a recipient at the request of the recipient, to accommodate unexpected extraordinary circumstances.

(C) In addition to the flexibility provided to a recipient pursuant to subparagraph (C) of paragraph (4) of subdivision (b) of Section 12300.4, a recipient may request the county welfare department to adjust his or her weekly authorized hours of services to exceed 40 hours of weekly authorized hours of services per week, within his or her total monthly authorized hours of services. A request for adjustment may be made ~~retrospective~~ *retroactive* to the hours actually worked. The county welfare department shall not unreasonably withhold approval of a recipient request made pursuant to this subparagraph.

(2) For purposes of subparagraph (C) of paragraph (1), and prior to its implementation, the State Department of Social Services shall develop a process for requests *made* pursuant to that subparagraph. The process shall include all of the following:

(A) The procedure, standards, and timeline for making a request to adjust the authorized weekly hours of service for a recipient ~~defined~~ *described* in this section.

(B) The language *to be* used for notices about the process.

(C) Provisions for adjustments to authorization, and for authorization after services have been provided, when the criteria for approval have been met.

(D) A requirement that the opportunity for a revision to the limitations of this section shall be discussed at each annual reassessment, and also may be authorized by the county welfare department outside of the reassessment process.

(3) Recipients shall be timely informed of their total monthly and weekly authorized hours.

(4) The weekly authorization of services defined in this section shall be used solely for the purposes of ensuring compliance with

the federal Fair Labor Standards Act and its implementing regulations.

(5) 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, interpret, or make specific this subdivision by means of all-county letters, or similar instructions, without taking any regulatory action.

(c) (1) Notwithstanding subdivision (b), at the county's option, assessments may be extended, on a case-by-case basis, for up to six months beyond the regular 12-month period, provided that the county documents that all of the following conditions exist:

(A) The recipient has had at least one reassessment since the initial program intake assessment.

(B) The recipient's living arrangement has not changed since the last annual reassessment and the recipient lives with others, or has regular meaningful contact with persons other than his or her service provider.

(C) The recipient or, if the recipient is a minor, his or her parent or legal guardian, or if incompetent, his or her conservator, is able to satisfactorily direct the recipient's care.

(D) There has *not* been ~~no~~ *a* known change in the recipient's supportive service needs within the previous 24 months.

(E) ~~No reports have~~ *A report has not* been made to, and there has been no involvement of, an adult protective services agency or agencies since the county last assessed the recipient.

(F) The recipient has not had a change in provider or providers for at least six months.

(G) The recipient has not reported a change in his or her need for supportive services that requires a reassessment.

(H) The recipient has not been hospitalized within the last three months.

(2) If some, but not all, of the conditions specified in paragraph (1) ~~of subdivision (c)~~ are met, the county may consider other factors in determining whether an extended assessment interval is appropriate, including, but not limited to, involvement in the recipient's care of a social worker, case manager, or other similar representative from another human services agency, such as a regional center or county mental health program, or communications, or other instructions from a physician or other

licensed health care professional that the recipient's medical condition is unlikely to change.

(3) A county may reassess a recipient's need for services at a time interval of less than 12 months from a recipient's initial intake or last assessment if the county social worker has information indicating that the recipient's need for services is expected to decrease in less than 12 months.

(d) A county shall assess a recipient's need for supportive services any time that the recipient notifies the county of a need to adjust the supportive services hours authorized, or ~~when~~ *if* there are other indications or expectations of a change in circumstances affecting the recipient's need for supportive services.

(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, until emergency regulations are filed with the Secretary of State, the department may implement this section through all-county letters or similar instructions from the director. The department shall adopt emergency regulations implementing this section no later than September 30, 2005, unless notification of a delay is made to the Chair of the Joint Legislative Budget Committee prior to that date. The notification shall include the reason for the delay, the current status of the emergency regulations, a date by which the emergency regulations shall be adopted, and a statement of need to continue use of all-county letters or similar instructions. ~~Under no circumstances shall the~~ *The* adoption of emergency regulations *shall not* be delayed, or the use of all-county letters or similar instructions be extended, beyond June 30, 2006.

(2) The adoption of regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section ~~shall be~~ *are* 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 shall remain in effect for no more than 180 days by which time final regulations shall be adopted. The department shall seek input from the entities listed in Section 12305.72 when

developing all-county letters or similar instructions and the regulations.

SEC. 592. Section 14005.75 of the Welfare and Institutions Code, as added by Section 1 of Chapter 1144 of the Statutes of 1985, is amended and renumbered to read:

~~14005.75.~~

14005.73. A person who is otherwise eligible for Medi-Cal benefits under either Section 14005.4 or 14005.7, except for income and resource eligibility, and who is receiving Medi-Cal services for the treatment of multiple sclerosis, shall continue to be eligible to receive benefits only for these services under Medi-Cal, provided that all other conditions of eligibility for the Medi-Cal program are met. These restricted benefits shall continue until such time as the person is eligible for, and receives, third party coverage for these treatments. However, restricted benefits under this section shall not continue for more than two years.

SEC. 593. Section 14005.271 of the Welfare and Institutions Code is amended to read:

14005.271. (a) The Healthy Families Advisory Board established by former Section 12693.90 of the Insurance Code is hereby renamed the Medi-Cal Children's Health Advisory Panel.

(b) The Medi-Cal Children's Health Advisory Panel shall be an independent, statewide advisory board that shall advise the State Department of Health Care Services on matters relevant to all children enrolled in Medi-Cal and their families, including, but not limited to, emerging trends in the care of children, quality measurements, communications between the State Department of Health Care Services and Medi-Cal families, provider network issues, and Medi-Cal enrollment issues.

(c) The membership of the advisory panel shall be composed of the following 15 members:

(1) One member who is a licensed, practicing dentist.

(2) One physician and surgeon who is board certified in the area of family practice medicine.

(3) One physician and surgeon who is board certified in pediatrics.

(4) One representative from a licensed nonprofit primary care clinic.

(5) One representative from the mental health provider community.

(6) One representative of the substance abuse provider community.

(7) One representative of the county public health provider community.

(8) One representative from a licensed hospital that is on the disproportionate share list maintained by the State Department of Health Care Services.

(9) A current or former foster youth; an attorney, social worker, probation officer, or court appointed special advocate who currently represents one or more foster youth; a foster care service provider; or a child welfare advocate.

(10) A parent of a Medi-Cal enrollee who has received treatment services under the California Children's Services Program within the past six months.

(11) A Medi-Cal enrollee who has received services under the Access for Infants and Mothers Program within the past six months.

(12) A parent or legal guardian of a Medi-Cal enrollee under 21 years of age who has received mental health services under the Early and Periodic Screening, Diagnostic, and Treatment Program (EPSDT) within the past six months.

(13) One representative from the health plan community.

(14) One representative from the business community.

(15) One representative from the education community.

(d) The advisory panel shall elect, from among its members, its chair. In order to coordinate the activities of the advisory panel with other advisory bodies whose scope includes children enrolled in Medi-Cal, the chair shall keep apprised of relevant Medi-Cal stakeholder meetings by communicating with State Department of Health Care Services staff assisting the advisory panel.

(e) The advisory panel ~~members, except as otherwise specified in paragraphs (4) and (5) of subdivision (c),~~ *members* shall be appointed by the State Department of Health Care Services, or in the case of vacancies of three months or greater, by the chair.

(f) The advisory panel's powers and duties include, but are not limited to, both of the following:

(1) To advise the Director of Health Care Services on all policies, regulations, and operations of the Medi-Cal program related to providing health care services to children.

(2) To meet at least quarterly, unless deemed unnecessary by the chair.

(g) The State Department of Health Care Services' powers and duties shall include, but not be limited to, all of the following:

(1) To provide general support and staff assistance to the advisory panel.

(2) To convene and attend meetings of the advisory panel at least quarterly, unless deemed unnecessary by the chair, at locations that are easily accessible to the public and advisory panel members, are of sufficient duration for presentation, discussion, and public comment on each agenda item, and are in accordance with 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).

(3) To reimburse the members of the advisory panel for all necessary travel expenses associated with the activities of the advisory panel, and to provide a stipend of one hundred dollars ($100) per meeting attended to each panel member who is a Medi-Cal enrollee or a parent of a Medi-Cal enrollee.

(4) To maintain an Internet Web page on the department's Internet Web site dedicated to the advisory panel that shall include, but not be limited to, all of the following:

(A) The purpose and scope of the advisory panel.

(B) The current membership of the advisory panel.

(C) A list of past and future meetings.

(D) Agendas and other materials made available for past and future meetings.

(E) Recommendations submitted to the department by the advisory panel.

(F) The department's responses to recommendations submitted by the advisory panel.

(G) Contact information for department staff assisting the advisory panel.

(5) To inform advisory panel members when new information is posted to the Internet Web page dedicated to the advisory panel.

(6) Notwithstanding Section 10231.5 of the Government Code, to submit on or before January 1, 2018, a report to the Legislature on the advisory panel's accomplishments, effectiveness, efficiency, and any recommendations for statutory changes needed to improve the ability of the advisory panel to fulfill its purpose. The report shall be submitted in compliance with Section 9795 of the Government Code.

(h) The Legislature does not intend the addition of this section to result in a new panel, but rather a continuation of the prior panel established by former Section 12693.90 of the Insurance Code. New panel members shall not be appointed until a vacancy occurs.

SEC. 594. Section 14011.2 of the Welfare and Institutions Code, as added by Section 34 of Chapter 171 of the Statutes of 2001, is amended and renumbered to read:

~~14011.2.~~

14011.25. To the extent federal financial participation is available, the department shall take all steps necessary to comply with the terms and conditions of the State Child Health Insurance Program waiver described in Section 12693.755 of the Insurance Code extending eligibility under the Healthy Families Program to parents and certain other adults. The department shall seek any state plan amendments or other waivers under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.) necessary to implement this section.

SEC. 595. Section 14011.10 of the Welfare and Institutions Code is amended to read:

14011.10. (a) Except as provided in Sections ~~14011.11, 14053.7,~~ *14053.7* and 14053.8, benefits provided under this chapter to an individual who is an inmate of a public institution shall be suspended in accordance with Section 1396d(a)(29)(A) of Title 42 of the United States Code as provided in subdivision (c).

(b) County welfare departments shall notify the department within 10 days of receiving information that an individual on Medi-Cal in the county is or will be an inmate of a public institution.

(c) If an individual is a Medi-Cal beneficiary on the date he or she becomes an inmate of a public institution, his or her benefits under this chapter and under Chapter 8 (commencing with Section 14200) shall be suspended effective the date he or she becomes an inmate of a public institution. The suspension shall end on the date he or she is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner.

(d) ~~Nothing in this~~ *This* section ~~shall~~ *does not* create a state-funded benefit or program. Health care services under this chapter and Chapter 8 (commencing with Section 14200) shall not

be available to inmates of public institutions whose Medi-Cal benefits have been suspended under this section.

(e) This section shall be implemented only if and to the extent allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained.

(f) If any part of this section is in conflict with or does not comply with federal law, this entire section shall be inoperative.

(g) This section shall be implemented on January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later.

(h) By January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later, the department, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, shall establish the protocols and procedures necessary to implement this section, including any needed changes to the protocols and procedures previously established to implement Section 14029.5.

(i) The department shall determine whether federal financial participation will be jeopardized by implementing this section and shall implement this section only if and to the extent that federal financial participation is not jeopardized.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 596. Section 14021.6 of the Welfare and Institutions Code is amended to read:

14021.6. (a) For the fiscal years prior to fiscal year 2004–05, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from available cost data by modality from the fiscal year that is two years prior to the year for which the rate is being established.

(b) (1) For the fiscal year 2007–08, and subsequent fiscal years, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall

be determined by computing the median rate from the most recently completed cost reports, by specific service codes that are consistent with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(2) For the fiscal years 2005–06 and 2006–07, if the State Department of Health Care Services ~~and the State Department of Alcohol and Drug Programs determine~~ *determines* that reasonably reliable and complete cost report data are available, the methodology specified in this subdivision shall be applied to either or both of those years. If reasonably reliable and complete cost report data are not available, the State Department of Health Care Services ~~and the State Department of Alcohol and Drug Programs~~ shall establish rates for either or both of those years based upon the usual, customary, and reasonable charge for the services to be provided, as ~~these two departments~~ *the department* may determine in ~~their~~ *its* discretion. This subdivision is not intended to modify subdivision (h) of Section 14124.24, which requires certain providers to submit performance reports.

(c) Notwithstanding subdivision (a), for the 1996–97 fiscal year, the rates for nonperinatal outpatient methadone maintenance services shall be set at the rate established for the 1995–96 fiscal year.

(d) Notwithstanding subdivision (a), the maximum allowable rate for group outpatient drug free services shall be set on a per person basis. A group shall consist of a minimum of 2 and a maximum of 12 individuals, at least one of which shall be a Medi-Cal eligible beneficiary. For groups consisting of two individuals, if one of the individuals is ineligible for Medi-Cal, the individual who is ineligible for Medi-Cal shall be receiving outpatient drug free services for a substance abuse disorder diagnosed by a physician.

(e) The department shall develop individual and group rates for extensive counseling for outpatient drug free treatment, based on a 50-minute individual or a 90-minute group hour, not to exceed the total rate established for subdivision (d).

(f) The department may adopt regulations as necessary to implement subdivisions (a), (b), and (c), or to implement cost containment procedures. These regulations may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title

2 of the Government Code. The adoption of these emergency regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 597. Section 14022 of the Welfare and Institutions Code is amended to read:

14022. (a) This section shall be known as the "Medi-Cal Conflict of Interest Law."

It is the intent of the Legislature that provisions be made for disclosure of the interests of providers of service in the services, facilities and organizations to which they refer Medi-Cal recipients so that it is possible to determine the extent to which conflicts of interests may exist because of such referrals.

(b) As used in this section, the term "referral" means (1) the referral of a recipient by a provider of service to any other provider of service; (2) the placement of a recipient by a provider of service in any facility; or (3) the obtaining, requesting, ordering or prescribing of services or supplies by a provider of service on behalf of a recipient from any other provider of service.

As used in this section, the term "immediate family" includes the spouse and children of the provider of service, the parents of the provider of service and his spouse, and the spouses of the children of the provider of service.

(c) ~~No~~ *A* payment under this chapter shall *not* be made to a provider of service or to any facility or organization in which he or his immediate family has a significant beneficial interest, for services rendered in connection with any referral of a recipient, unless there is on file with the director and the Advisory Health Council a statement of the nature and extent of such interest.

~~This~~

(d) This section shall become operative only upon the date of which Section 1902(a)(4)(C) of the federal Social Security Act, as added by Public Law 95-559 is repealed, held invalid by a court of appeal, or otherwise made inoperative.

SEC. 598. Section 14029.91 of the Welfare and Institutions Code is amended to read:

14029.91. (a) The department shall require all managed care plans contracting with the department to provide Medi-Cal services to provide language assistance services to

limited-English-proficient (LEP) Medi-Cal beneficiaries who are mandatorily enrolled in managed care in the following manner:

(1) Oral interpretation services shall be provided in any language on a 24-hour basis at key points of contact.

(2) Translation services shall be provided to the language groups identified by the department.

(b) The department shall determine when an LEP population meets the requirement for translation services using one of the following numeric thresholds:

(1) A population group of at least 3,000 or 5 percent of the beneficiary population, whichever is fewer, mandatory *managed care* Medi-Cal beneficiaries, residing in the service area, who indicate their primary language as other than English.

(2) A population group of mandatory *managed care* Medi-Cal beneficiaries, residing in the service area, who indicate their primary language as other than English, and that meet a concentration standard of 1,000 beneficiaries in a single ZIP Code or 1,500 beneficiaries in two contiguous ZIP Codes.

(c) The department shall make this determination if any of the following occurs:

(1) A nonmanaged care county becomes a new managed care county.

(2) A new population group becomes a mandatory Medi-Cal managed care beneficiary population.

(3) A period of three years has passed since the last determination.

(d) The department shall instruct managed care plans, by means of incorporating the requirement into plan contracts, all-plan letters, or similar instructions, of the language groups that meet the numeric thresholds.

(e) For purposes of this section, a person is "limited-English-proficient" if he or she speaks English less than very well.

(f) This section ~~shall~~ *does* not apply to mental health plans contracting with the department pursuant to Section 14712.

SEC. 599. The heading of Article 2.93 (commencing with Section 14091.3) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is repealed.

~~Article 2.93. Payments to Hospitals~~

SEC. 600. Section 14103 of the Welfare and Institutions Code, as added by Section 25 of Chapter 3 of the 1st Extraordinary Session of the Statutes of 2013, is repealed.

~~14103. (a) The implementation of the optional expansion of Medi-Cal benefits to adults who meet the eligibility requirements of Section 1902(a)(10)(A)(i)(VIII) of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII)), shall be contingent upon the following:~~

~~(1) If the federal medical assistance percentage payable to the state under the ACA for the optional expansion of Medi-Cal benefits to adults is reduced below 90 percent, that reduction shall be addressed in a timely manner through the annual state budget or legislative process. Upon receiving notification of any reduction in federal assistance pursuant to this paragraph, the Director of Finance shall immediately notify the Chairpersons of the Senate and Assembly Health Committees and the Chairperson of the Joint Legislative Budget Committee.~~

~~(2) If, prior to January 1, 2018, the federal medical assistance percentage payable to the state under the ACA for the optional expansion of Medi-Cal benefits to adults is reduced to 70 percent or less, the implementation of any provision in this chapter authorizing the optional expansion of Medi-Cal benefits to adults shall cease 12 months after the effective date of the federal law or other action reducing the federal medical assistance percentage.~~

~~(b) For purposes of this section, "ACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148) as originally enacted and as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) and any subsequent amendments.~~

SEC. 601. Section 14105.18 of the Welfare and Institutions Code is amended to read:

14105.18. (a) Notwithstanding any other ~~provision of~~ law, provider rates of payment for services rendered in all of the following programs shall be identical to the rates of payment for the same service performed by the same provider type pursuant to the Medi-Cal program:

(1) The California Children's Services Program established pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code.

(2) The Genetically Handicapped ~~Person's~~ *Persons* Program established pursuant to Article 1 (commencing with Section 125125) of Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.

(3) The Breast and Cervical Cancer Early Detection Program established pursuant to Article 1.3 (commencing with Section 104150) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code and the breast cancer programs specified in Section 30461.6 of the Revenue and Taxation Code.

(4) The State-Only Family Planning Program established pursuant to Division 24 (commencing with Section 24000).

(5) The Family Planning, Access, Care, and Treatment (Family PACT) Program established pursuant to subdivision (aa) of Section 14132.

(6) The Healthy Families Program established pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code if the health care services are provided by a Medi-Cal provider pursuant to subdivision (b) of Section 12693.26 of the Insurance Code.

(7) The Access for Infants and Mothers Program established pursuant to Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code if the health care services are provided by a Medi-Cal provider.

(b) The director may identify in regulations other programs not listed in subdivision (a) in which providers shall be paid rates of payment that are identical to the rates of payments in the Medi-Cal program pursuant to subdivision (a).

(c) Notwithstanding subdivision (a), services provided under any of the programs described in subdivisions (a) and (b) may be reimbursed at rates greater than the Medi-Cal rate that would otherwise be applicable if those rates are adopted by the director in regulations.

(d) Payment increases made pursuant to Section 14105.196 shall not apply to provider rates of payment described in this section for services provided to individuals not eligible for Medi-Cal or Family PACT.

(e) This section shall become operative on January 1, 2011.

SEC. 602. Section 14105.336 of the Welfare and Institutions Code is repealed.

~~14105.336. (a) The department shall reduce reimbursements to pharmacists by fifty cents ($0.50) per prescription, effective January 1, 1995, for all drug prescription claims reimbursed through the Medi-Cal program.~~

~~(b) This section shall become inoperative on September 1, 2004.~~

SEC. 603. Section 14105.337 of the Welfare and Institutions Code is repealed.

~~14105.337. (a) Effective January 1, 2000, the department shall increase reimbursement to pharmacists by twenty-five cents ($0.25) per prescription for all drug prescription claims reimbursed through the Medi-Cal program.~~

~~(b) Effective July 1, 2002, the department shall increase reimbursement to pharmacists by an additional fifteen cents ($0.15) per prescription for all drug prescription claims reimbursed through the Medi-Cal program.~~

~~(c) (1) The department shall reduce reimbursement to pharmacists in the amount reimbursement was increased pursuant to subdivisions (a) and (b) with respect to pharmacy services rendered on and after the date that this subdivision is enacted. Claims submitted by pharmacists for beneficiaries residing in a nursing facility shall be exempt from this subdivision.~~

~~(2) This subdivision shall become inoperative on July 1, 2004.~~

~~(d) This section shall become inoperative on September 1, 2004.~~

SEC. 604. Section 14124.24 of the Welfare and Institutions Code is amended to read:

14124.24. (a) For purposes of this section, "Drug Medi-Cal reimbursable services" means the substance use disorder services described in the California State Medicaid Plan and includes, but is not limited to, all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 14021.51.

(2) Day care rehabilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(6) Other services upon approval of a federal Medicaid state plan amendment or waiver authorizing federal financial participation.

(b) (1) While seeking federal approval for any federal Medicaid state plan amendment or waiver associated with Drug Medi-Cal services, the department shall consult with the counties and stakeholders in the development of the state plan amendment or waiver.

(2) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, "Drug Medi-Cal reimbursable services" shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(A) Notwithstanding subdivision (a) of Section 14132.90, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with substance use disorder diagnoses.

(B) Case management services, including supportive services to assist persons with substance use disorder diagnoses in gaining access to medical, social, educational, and other needed services.

(C) Aftercare services.

(c) (1) The nonfederal share for Drug Medi-Cal services shall be funded through a county's Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011, and any other available county funds eligible under federal law for federal Medicaid reimbursement. The funds contained in each county's Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011 shall be considered state funds distributed by the principal state agency for the purposes of receipt of the federal block grant funds for prevention and treatment of substance abuse found at Subchapter XVII of Chapter 6A of Title 42 of the United States Code. Pursuant to applicable federal Medicaid law and regulations including Section 433.51 of Title 42 of the Code of Federal Regulations, counties may claim allowable Medicaid federal financial participation for Drug Medi-Cal services based on the counties certifying their actual total funds expenditures for eligible Drug Medi-Cal services to the department.

(2) (A) If the director determines that a county's provision of Drug Medi-Cal treatment services are disallowed by the federal government or by state or federal audit or review, the impacted county shall be responsible for repayment of all disallowed federal

funds. In addition to any other recovery methods available, including, but not limited to, offset of Medicaid federal financial participation funds owed to the impacted county, the director may offset these amounts in accordance with Section 12419.5 of the Government Code.

(B) A county subject to an action by the director pursuant to subparagraph (A) may challenge that action by requesting a hearing in writing no later than 30 days from receipt of notice of the department's action. The proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director has all the powers granted therein. Upon a county's timely request for hearing, the county's obligation to make payment as determined by the director shall be stayed pending the county's exhaustion of administrative remedies provided herein but no longer than will ensure the department's compliance with Section 1903(d)(2)(C) of the federal Social Security Act (42 U.S.C. Sec. 1396b).

(d) Drug Medi-Cal services are only reimbursable to Drug Medi-Cal providers with an approved Drug Medi-Cal contract.

(e) Counties shall negotiate contracts only with providers certified to provide Drug Medi-Cal services.

(f) The department shall develop methods to ensure timely payment of Drug Medi-Cal claims.

(g) (1) A county or a contracted provider, except for a provider to whom subdivision (h) applies, shall submit accurate and complete cost reports for the previous fiscal year by November 1, following the end of the fiscal year. The department may settle Drug Medi-Cal reimbursable services, based on the cost report as the final amendment to the approved county Drug Medi-Cal contract.

(2) Amounts paid for services provided to Drug Medi-Cal beneficiaries shall be audited by the department in the manner and form described in Section 14170.

(3) Administrative appeals to review grievances or complaints arising from the findings of an audit or examination made pursuant to this section shall be subject to Section 14171.

(h) Certified narcotic treatment program providers that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 or 3063.1 of the Penal Code or

Section 14021.52 of this code shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state daily reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators' Association of California, and representatives of the treatment providers.

(i) Contracts entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(j) Annually, the department shall publish procedures for contracting for Drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(k) If the department commences a preliminary criminal investigation of a certified provider, the department shall promptly notify each county that currently contracts with the provider for Drug Medi-Cal services that a preliminary criminal investigation has commenced. If the department concludes a preliminary criminal investigation of a certified provider, the department shall promptly notify each county that currently contracts with the provider for Drug Medi-Cal services that a preliminary criminal investigation has concluded.

(1) Notice of the commencement and conclusion of a preliminary criminal investigation pursuant to this section shall be made to the county behavioral health director or his or her equivalent.

(2) Communication between the department and a county specific to the commencement or conclusion of a preliminary criminal investigation pursuant to this section shall be deemed confidential and shall not be subject to any disclosure request, including, but not limited to, the Information Practices Act of ~~1997~~ *1977* (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the ~~Code of Civil Procedure),~~ *Civil Code)*, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), requests pursuant to a subpoena, or for any other public purpose, including, but not limited to, court testimony.

(3) Information shared by the department with a county regarding a preliminary criminal investigation shall be maintained in a manner to ensure protection of the confidentiality of the criminal investigation.

(4) The information provided to a county pursuant to this section shall only include the provider name, national provider identifier (NPI) number, address, and the notice that an investigation has commenced or concluded.

(5) A county shall not take any adverse action against a provider based solely upon the preliminary criminal investigation information disclosed to the county pursuant to this section.

(6) In the event of a preliminary criminal investigation of a county owned or operated program, the department has the option to, but is not required to, notify the county pursuant to this section when the department commences or concludes a preliminary criminal investigation.

(7) This section ~~shall~~ *does* not limit the voluntary or otherwise legally mandated or contractually mandated sharing of information between the department and a county of information regarding audits and investigations of Drug Medi-Cal providers.

(8) "Commenced" means the time at which a complaint or allegation is assigned to an investigator for a field investigation.

(9) "Preliminary criminal investigation" means an investigation to gather information to determine if criminal law or statutes have been violated.

SEC. 605. Section 14132.90 of the Welfare and Institutions Code is repealed.

~~14132.90. (a) As of September 15, 1995, day care habilitative services, pursuant to subdivision (c) of Section 14021 shall be provided only to alcohol and drug exposed pregnant women and women in the postpartum period, or as required by federal law.~~

~~(b) (1) Notwithstanding any other provision of law, except to the extent required by federal law, if, as of May 15, 2000, the projected costs for the 1999–2000 fiscal year for outpatient drug abuse services, as described in Section 14021, exceed forty-five million dollars ($45,000,000) in state General Fund moneys, then the outpatient drug free services, as defined in Section 51341.1 of Title 22 of the California Code of Regulations, shall not be a benefit under this chapter as of July 1, 2000.~~

~~(2) Notwithstanding paragraph (1), narcotic replacement therapy and Naltrexone shall remain benefits under this chapter.~~

~~(3) Notwithstanding paragraph (1), residential care, outpatient drug-free services, and day care habilitative services, for alcohol and drug exposed pregnant women and women in the postpartum period shall remain benefits under this chapter.~~

~~(c) Expenditures for services purchased at the direction of county welfare departments on behalf of CalWORKs recipients shall not be included in the computation of costs for subdivision (b).~~

~~(d) For the 1999–2000 fiscal year and each fiscal year thereafter, there shall be separate annual fiscal year General Fund appropriations for drug Medi-Cal perinatal services (Item 4200-104-0001 of the Budget Act), drug Medi-Cal nonperinatal services (Item 4200-103-0001 of the Budget Act), nondrug Medi-Cal perinatal services (Item 4200-102-0001 of the Budget Act), and nondrug Medi-Cal nonperinatal services (Item 4200-101-0001 of the Budget Act).~~

~~(e) Notwithstanding any other provision of law, the State Department of Alcohol and Drug Programs shall maintain a contingency reserve of the reappropriated General Fund moneys for the purpose of drug Medi-Cal program expenditures.~~

~~(f) Unexpended General Fund moneys appropriated for the drug Medi-Cal program may be transferred for use as nondrug Medi-Cal county expenditures in the current or budget years. Unexpended General Fund moneys shall not be transferred from nondrug Medi-Cal to the drug Medi-Cal program for purposes of providing matching funds for federal financial participation.~~

~~(g) This section shall become inoperative on July 1, 2013.~~

SEC. 606. Section 14132.99 of the Welfare and Institutions Code, as amended by Section 237 of Chapter 664 of the Statutes of 2002, is amended and renumbered to read:

~~14132.99.~~

14132.985. For services provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, Section 14499.5, or Chapter 1 (commencing with Section 101525) to Chapter 4 (commencing with Section 101825), inclusive, of Part 4 of Division 101 of the Health and Safety Code, the cost for services defined in Section 1370.6 of the Health and Safety Code, and Sections 14087.11 and 14132.98 shall be provided by ~~state~~

~~only~~ *state-only* funds if federal financial participation is not available.

SEC. 607. Section 14132.277 of the Welfare and Institutions Code is amended to read:

14132.277. (a) For purposes of this section, the following definitions ~~shall~~ apply:

(1) "Alternate health care service plan" means a prepaid health plan that is a nonprofit health care service plan with at least 3.5 million enrollees statewide, that owns or operates its own pharmacies, and that provides medical services to enrollees in specific geographic regions through an exclusive contract with a single medical group in each specific geographic region in which it operates to provide services to enrollees.

(2) "Cal MediConnect plan" means a health plan or other qualified entity jointly selected by the state and CMS for participation in the demonstration project.

(3) "CMS" means the federal Centers for Medicare and Medicaid Services.

(4) "Coordinated Care Initiative county" means the Counties of Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara, and any other county identified in Appendix 3 of the Memorandum of Understanding Between the Centers for Medicare and Medicaid Services and the State of California, Regarding a Federal-State Partnership to Test a Capitated Financial Alignment Model for Medicare-Medicaid Enrollees, inclusive of all amendments, as authorized by Section 14132.275.

(5) "D-SNP plan" means a Medicare Advantage Dual Special Needs Plan.

(6) "D-SNP contract" means a federal Medicare Improvements for Patients and Provider Act of 2008 (Public Law 110-275) compliant contract between the department and a D-SNP plan.

(7) "Demonstration project" means the demonstration project authorized by Section 14132.275.

(8) "Excluded beneficiaries" means those beneficiaries who are not eligible to participate in the demonstration project pursuant to subdivision (*l*) of Section 14132.275.

(9) "FIDE-SNP plan" means a Medicare Advantage Fully-Integrated Dual Eligible Special Needs Plan.

(10) "Non-Coordinated Care Initiative counties" means counties not participating in the demonstration project.

(b) For the 2014 calendar year, the department shall offer D-SNP contracts to existing D-SNP plans to continue to provide benefits to their enrollees in their service areas as approved on January 1, 2013. The director may include in any D-SNP contract provisions requiring that the D-SNP plan do the following:

(1) Submit to the department a complete and accurate copy of the bid submitted by the plan to CMS for its D-SNP contract.

(2) Submit to the department copies of all utilization and quality management reports submitted to CMS.

(c) In Coordinated Care Initiative counties, Medicare Advantage plans and D-SNP plans may continue to enroll beneficiaries in 2014. In the 2014 calendar year, beneficiaries enrolled in a Medicare Advantage or D-SNP plan operating in a Coordinated Care Initiative county shall be exempt from the enrollment provisions of subparagraph (A) of paragraph (1) of subdivision (*l*) of Section 14132.275. Those beneficiaries may at any time voluntarily choose to disenroll from their Medicare Advantage or D-SNP plan and enroll in a demonstration site operating pursuant to subdivision (g) of Section 14132.275. If a beneficiary chooses to do so, that beneficiary may subsequently disenroll from the demonstration site and return to fee-for-service Medicare or to a D-SNP plan or Medicare Advantage plan.

(d) For the 2015 calendar year and the remainder of the demonstration project, in Coordinated Care Initiative counties, the department shall offer D-SNP contracts to D-SNP plans that were approved for the D-SNP plan's service areas as of January 1, 2013. In Coordinated Care Initiative counties, the department shall enter into D-SNP contracts with D-SNP plans only for excluded beneficiaries and for those beneficiaries identified in paragraphs (2) and (5) of subdivision (g).

(e) For the 2015 calendar year and the remainder of the demonstration project, in non-Coordinated Care Initiative counties, the department shall offer D-SNP contracts to D-SNP plans.

(f) The director may include in a D-SNP contract offered pursuant to subdivision (d) or (e) provisions requiring that the D-SNP plan do the following:

(1) Submit to the department a complete and accurate copy of the bid submitted by the plan to CMS for its D-SNP contract.

(2) Submit to the department copies of all utilization and quality management reports submitted to CMS.

(g) For the 2015 calendar year and the remainder of the demonstration project, in Coordinated Care Initiative counties, the enrollment provisions of subdivision (*l*) of Section 14132.275 shall apply subject to the following:

(1) Beneficiaries enrolled in a FIDE-SNP plan or a Medicare Advantage plan, other than a D-SNP plan, shall be exempt from the enrollment provisions of subparagraph (A) of paragraph (1) of subdivision (*l*) of Section 14132.275.

(2) ~~Where~~ *If* the D-SNP plan is not a Cal MediConnect plan, beneficiaries enrolled as of December 31, 2014, in a D-SNP plan shall be exempt from the enrollment provisions of subparagraph (A) of paragraph (1) of subdivision (*l*) of Section 14132.275. Those beneficiaries may at any time voluntarily choose to disenroll from their D-SNP plan and enroll in a demonstration site operating pursuant to subdivision (g) of Section 14132.275. A dual eligible beneficiary who is enrolled as of December 31, 2014, in a D-SNP plan that is not a Cal MediConnect plan and who opts out of a demonstration site during the course of the demonstration project may choose to reenroll in that D-SNP plan.

(3) ~~Where~~ *If* the D-SNP is a Cal MediConnect plan, beneficiaries enrolled in a D-SNP plan who are eligible for the demonstration project shall be subject to the enrollment provisions of subparagraph (A) of paragraph (1) of subdivision (*l*) of Section 14132.275.

(4) For FIDE-SNP plans serving beneficiaries in Coordinated Care Initiative counties, the department shall require the following provisions:

(A) After December 31, 2014, enrollment in *the County of* Los Angeles ~~County~~ shall not exceed 6,000 additional beneficiaries at any point during the term of the demonstration project. After December 31, 2014, enrollment in the combined *Counties of* Riverside and San Bernardino ~~counties~~ shall not exceed 1,500 additional beneficiaries at any point during the term of the demonstration project.

(B) Any necessary data or information requirements provided by the FIDE-SNP to ensure contract compliance.

(5) Beneficiaries enrolled in an alternate health care service plan (AHCSP) who become dually eligible for Medicare and

Medicaid benefits while enrolled in that AHCSP may elect to enroll in the AHCSP's D-SNP plan subject to the following requirements:

(A) The beneficiary was a member of the AHCSP immediately prior to becoming dually eligible for Medicare and Medicaid benefits.

(B) Upon mutual agreement between a Cal MediConnect Plan operated by a health authority or commission contracting with the department and the AHCSP, the AHCSP shall take full financial and programmatic responsibility for the long-term supports and services of the D-SNP enrollee, including, but not limited to, in-home supportive services, long term skilled nursing care, community based adult services, multipurpose senior services program services, and other Medi-Cal benefits offered in the demonstration project.

(6) Prior to assigning a beneficiary in a Medi-Cal managed care health plan pursuant to Section 14182.16, the department shall determine whether the beneficiary is already a member of the AHCSP. If so, the beneficiary shall be assigned to a Medi-Cal managed care health plan operated by a health authority or commission contracting with the department and subcontracting with the AHCSP.

SEC. 608. Section 14148.67 of the Welfare and Institutions Code is amended to read:

14148.67. (a) When implementing the premium and cost-sharing payments required under Sections 14102 and 14148.65, the department shall make the premium and cost-sharing payments required under those sections to the beneficiary's qualified health plan in conformity with the requirements of this section.

(b) (1) The beneficiary shall not be charged, billed, asked, or required to make any premium or cost-sharing payments to his or her qualified health plan or service provider for any services that are subject to premium or cost-sharing payments by the department under Section 14102 or 14148.65.

(2) If the beneficiary makes any premium or cost-sharing payments to his or her plan or provider for services that are subject to premium or cost-sharing payments by the department under Section 14102 or 14148.65, the department shall reimburse the beneficiary for those payments. The department shall make every reasonable effort to do both of the following:

(A) Make the reimbursement process simple and easy for beneficiaries to use.

(B) Promptly reimburse beneficiaries under this paragraph.

(3) If, as a result of reconciliation in a tax year ~~where~~ *in which* the beneficiary was eligible for covered premium payments under Section 14102 or 14148.65, the beneficiary owes and makes a tax payment to the federal government to return a portion of the advanced premium tax credit to which the beneficiary was not entitled and the beneficiary notifies the department, the department shall reimburse the beneficiary for the amount of the tax payment related to the tax credits for covered premium payments under Section 14102 or 14148.65.

(4) If, as a result of reconciliation in a tax year ~~where~~ *in which* the beneficiary was eligible for covered premium payments under Section 14102 or 14148.65, the federal government owes and makes a tax refund to the beneficiary based upon the beneficiary's advanced premium tax credit, the beneficiary shall reimburse the department for the portion of the refund that is related to the tax credits that were applied to the premium payments made by the department.

(c) (1) Except as provided in paragraph (2), beneficiaries who are eligible for benefits under Section 14102 or 14148.65 shall be eligible for the premium and cost-sharing payments required under those sections only up to the amount necessary to pay for the second lowest silver level plan in his or her qualified health plan pricing region, as modified by cost-sharing reductions.

(2) If a beneficiary selects or remains in a metal level plan that is more expensive than the metal level plan amount limit required under paragraph (1), the beneficiary may select or remain in that plan only if he or she agrees to be responsible for paying all applicable premium and cost-sharing charges that are in excess of what is covered by the department. The department ~~shall~~ *is* not ~~be~~ responsible for paying for any premium or cost sharing that is in excess of the metal level plan amount limit required under paragraph (1).

(d) The department shall consult with the Exchange, Exchange contracting health care service plans and health insurers, and stakeholders, including consumer advocates, Medi-Cal providers, and the counties, in the development and implementation of the following:

(1) Processes and procedures to inform affected applicants and beneficiaries in a clear, consumer-friendly manner of all of their enrollment options under the Medi-Cal program and the Exchange, of the manner in which they may receive the benefits and services covered through the Exchange coverage, and of the manner in which they may receive benefits and services under Section 14102.

(2) Provider notices to ensure that Medi-Cal providers are aware of the Medi-Cal program under Section 14102 and that providers comply with state laws applicable to Medi-Cal coverage for individuals eligible under Section 14102.

(e) All notices developed under subdivision (d) shall be accessible to persons with limited English language proficiency and persons with disabilities consistent with all federal and state requirements.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. The department shall adopt regulations by July 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Section 10231.5 of the Government Code, beginning six months after the effective date of this section, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(g) This section shall be implemented only if and to the extent that federal financial participation is available and any necessary federal approvals have been obtained.

SEC. 609. Section 14148.9 of the Welfare and Institutions Code, as added by Section 4 of Chapter 1171 of the Statutes of 1991, is amended and renumbered to read:

~~14148.9.~~

14148.85 The department shall provide for the receipt and initial processing of Medi-Cal applications from (a) pregnant women; and (b) children born after September 30, 1983, who have not yet attained 19 years of age, at facilities other than the county

welfare department as described in Title XIX of the Social Security Act (42 U.S.C., Sec. 1396 and following).

SEC. 610. Section 14154 of the Welfare and Institutions Code is amended to read:

14154. (a) (1) The department shall establish and maintain a plan whereby costs for county administration of the determination of eligibility for benefits under this chapter will be effectively controlled within the amounts annually appropriated for that administration. The plan, to be known as the County Administrative Cost Control Plan, shall establish standards and performance criteria, including workload, productivity, and support services standards, to which counties shall adhere. The plan shall include standards for controlling eligibility determination costs that are incurred by performing eligibility determinations at county hospitals, or that are incurred due to the outstationing of any other eligibility function. Except as provided in Section 14154.15, reimbursement to a county for outstationed eligibility functions shall be based solely on productivity standards applied to that county's welfare department office.

(2) (A) The plan shall delineate both of the following:

(i) The process for determining county administration base costs, which include salaries and benefits, support costs, and staff development.

(ii) The process for determining funding for caseload changes, cost-of-living adjustments, and program and other changes.

(B) The annual county budget survey document utilized under the plan shall be constructed to enable the counties to provide sufficient detail to the department to support their budget requests.

(3) The plan shall be part of a single state plan, jointly developed by the department and the State Department of Social Services, in conjunction with the counties, for administrative cost control for the California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, and Medical Assistance (Medi-Cal) programs. Allocations shall be made to each county and shall be limited by and determined based upon the County Administrative Cost Control Plan. In administering the plan to control county administrative costs, the department shall not allocate state funds to cover county cost overruns that result from county failure to meet requirements of the plan. The department and the State Department of Social Services shall budget, administer, and

allocate state funds for county administration in a uniform and consistent manner.

(4) The department and county welfare departments shall develop procedures to ensure the data clarity, consistency, and reliability of information contained in the county budget survey document submitted by counties to the department. These procedures shall include the format of the county budget survey document and process, data submittal and its documentation, and the use of the county budget survey documents for the development of determining county administration costs. Communication between the department and the county welfare departments shall be ongoing as needed regarding the content of the county budget surveys and any potential issues to ensure the information is complete and well understood by involved parties. ~~Any changes~~ *Changes* developed pursuant to this section shall be incorporated within the state's annual budget process by no later than the 2011–12 fiscal year.

(5) The department shall provide a clear narrative description along with fiscal detail in the Medi-Cal estimate package, submitted to the Legislature in January and May of each year, of each component of the county administrative funding for the Medi-Cal program. This shall describe how the information obtained from the county budget survey documents was utilized and, if applicable, modified and the rationale for the changes.

(6) Notwithstanding any other law, the department shall develop and implement, in consultation with county program and fiscal representatives, a new budgeting methodology for Medi-Cal county administrative costs that reflects the impact of PPACA implementation on county administrative work. The new budgeting methodology shall be used to reimburse counties for eligibility processing and case maintenance for applicants and beneficiaries.

(A) The budgeting methodology may include, but is not limited to, identification of the costs of eligibility determinations for applicants, and the costs of eligibility redeterminations and case maintenance activities for recipients, for different groupings of cases, based on variations in time and resources needed to conduct eligibility determinations. The calculation of time and resources shall be based on the following factors: complexity of eligibility rules, ongoing eligibility requirements, and other factors as determined appropriate by the department. The development of

the new budgeting methodology may include, but is not limited to, county survey of costs, time and motion studies, in-person observations by department staff, data reporting, and other factors deemed appropriate by the department.

(B) The new budgeting methodology shall be clearly described, state the necessary data elements to be collected from the counties, and establish the timeframes for counties to provide the data to the state.

(C) The new budgeting methodology developed pursuant to this paragraph shall be implemented no sooner than the 2015–16 fiscal year. The department may develop a process for counties to phase in the requirements of the new budgeting methodology.

(D) The department shall provide the new budgeting methodology to the legislative fiscal committees by March 1 of the fiscal year immediately preceding the first fiscal year of implementation of the new budgeting methodology.

(E) To the extent that the funding for the county budgets developed pursuant to the new budget methodology is not fully appropriated in any given fiscal year, the department, with input from the counties, shall identify and consider options to align funding and workload responsibilities.

(F) For purposes of this paragraph, "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) and any subsequent amendments.

(G) 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 paragraph by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time any necessary regulations are adopted. The department shall adopt regulations by July 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the implementation of the new budgeting methodology pursuant to this paragraph, and notwithstanding Section 10231.5 of the Government Code, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with

Section 9795 of the Government Code, until regulations have been adopted.

(b) ~~Nothing in this~~ *This* section, Section 15204.5, or Section 18906 shall *not* be construed to limit the administrative or budgetary responsibilities of the department in a manner that would violate Section 14100.1, and thereby jeopardize federal financial participation under the Medi-Cal program.

(c) (1) The Legislature finds and declares that in order for counties to do the work that is expected of them, it is necessary that they receive adequate funding, including adjustments for reasonable annual cost-of-doing-business increases. The Legislature further finds and declares that linking appropriate funding for county Medi-Cal administrative operations, including annual cost-of-doing-business adjustments, with performance standards will give counties the incentive to meet the performance standards and enable them to continue to do the work they do on behalf of the state. It is therefore the Legislature's intent to provide appropriate funding to the counties for the effective administration of the Medi-Cal program at the local level to ensure that counties can reasonably meet the purposes of the performance measures as contained in this section.

(2) It is the intent of the Legislature to not appropriate funds for the cost-of-doing-business adjustment for the 2008–09, 2009–10, 2010–11, 2011–12, 2012–13, and 2014–15 fiscal years.

(d) The department is responsible for the Medi-Cal program in accordance with state and federal law. A county shall determine Medi-Cal eligibility in accordance with state and federal law. If in the course of its duties the department becomes aware of accuracy problems in any county, the department shall, within available resources, provide training and technical assistance as appropriate. ~~Nothing in this~~ *This* section shall *not* be interpreted to eliminate any remedy otherwise available to the department to enforce accurate county administration of the program. In administering the Medi-Cal eligibility process, each county shall meet the following performance standards each fiscal year:

(1) Complete eligibility determinations as follows:

(A) Ninety percent of the general applications without applicant errors and are complete shall be completed within 45 days.

(B) Ninety percent of the applications for Medi-Cal based on disability shall be completed within 90 days, excluding delays by the state.

(2) (A) The department shall establish best-practice guidelines for expedited enrollment of newborns into the Medi-Cal program, preferably with the goal of enrolling newborns within 10 days after the county is informed of the birth. The department, in consultation with counties and other stakeholders, shall work to develop a process for expediting enrollment for all newborns, including those born to mothers receiving CalWORKs assistance.

(B) Upon the development and implementation of the best-practice guidelines and expedited processes, the department and the counties may develop an expedited enrollment timeframe for newborns that is separate from the standards for all other applications, to the extent that the timeframe is consistent with these guidelines and processes.

(3) Perform timely annual redeterminations, as follows:

(A) Ninety percent of the annual redetermination forms shall be mailed to the recipient by the anniversary date.

(B) Ninety percent of the annual redeterminations shall be completed within 60 days of the recipient's annual redetermination date for those redeterminations based on forms that are complete and have been returned to the county by the recipient in a timely manner.

(C) Ninety percent of those annual redeterminations ~~where~~ *for which* the redetermination form has not been returned to the county by the recipient shall be completed by sending a notice of action to the recipient within 45 days after the date the form was due to the county.

(D) If a child is determined by the county to change from no share of cost to a share of cost and the child meets the eligibility criteria for the Healthy Families Program established under Section 12693.98 of the Insurance Code, the child shall be placed in the Medi-Cal-to-Healthy Families Bridge Benefits Program, and these cases shall be processed as follows:

(i) Ninety percent of the families of these children shall be sent a notice informing them of the Healthy Families Program within five working days from the determination of a share of cost.

(ii) Ninety percent of all annual redetermination forms for these children shall be sent to the Healthy Families Program within five

working days from the determination of a share of cost if the parent has given consent to send this information to the Healthy Families Program.

(iii) Ninety percent of the families of these children placed in the Medi-Cal-to-Healthy Families Bridge Benefits Program who have not consented to sending the child's annual redetermination form to the Healthy Families Program shall be sent a request, within five working days of the determination of a share of cost, to consent to send the information to the Healthy Families Program.

(E) Subparagraph (D) shall not be implemented until 60 days after the Medi-Cal and Joint Medi-Cal and Healthy Families applications and the Medi-Cal redetermination forms are revised to allow the parent of a child to consent to forward the child's information to the Healthy Families Program.

(e) The department shall develop procedures in collaboration with the counties and stakeholder groups for determining county review cycles, sampling methodology and procedures, and data reporting.

(f) On January 1 of each year, each applicable county, as determined by the department, shall report to the department on the county's results in meeting the performance standards specified in this section. The report ~~shall be~~ *is* subject to verification by the department. County reports shall be provided to the public upon written request.

(g) If the department finds that a county is not in compliance with one or more of the standards set forth in this section, the county shall, within 60 days, submit a corrective action plan to the department for approval. The corrective action plan shall, at a minimum, include steps that the county shall take to improve its performance on the standard or standards with which the county is out of compliance. The plan shall establish interim benchmarks for improvement that shall be expected to be met by the county in order to avoid a sanction.

(h) (1) If a county does not meet the performance standards for completing eligibility determinations and redeterminations as specified in this section, the department may, at its sole discretion, reduce the allocation of funds to that county in the following year by 2 percent. ~~Any funds~~ *Funds* so reduced may be restored by the department if, in the determination of the department, sufficient improvement has been made by the county in meeting the

performance standards during the year for which the funds were reduced. If the county continues not to meet the performance standards, the department may reduce the allocation by an additional 2 percent for each year thereafter in which sufficient improvement has not been made to meet the performance standards.

(2) ~~No~~ *A* reduction of the allocation of funds to a county shall *not* be imposed pursuant to this subdivision for failure to meet performance standards during any period of time in which the cost-of-doing-business increase is suspended.

(i) The department shall develop procedures, in collaboration with the counties and stakeholders, for developing instructions for the performance standards established under subparagraph (D) of paragraph (3) of subdivision (d), no later than September 1, 2005.

(j) No later than September 1, 2005, the department shall issue a revised annual redetermination form to allow a parent to indicate parental consent to forward the annual redetermination form to the Healthy Families Program if the child is determined to have a share of cost.

(k) The department, in coordination with the Managed Risk Medical Insurance Board, shall streamline the method of providing the Healthy Families Program with information necessary to determine Healthy Families eligibility for a child who is receiving services under the Medi-Cal-to-Healthy Families Bridge Benefits Program.

(*l*) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and except as provided in subparagraph (G) of paragraph (6) of subdivision (a), the department shall, without taking any further regulatory action, implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters or similar instructions.

SEC. 611. 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) Medi-Cal payment for hospital services provided by the new hospital, exclusive of any payments under the Medi-Cal Hospital Reimbursement Improvement Act of 2013 (Article 5.230 (commencing with Section 14169.50)) or funded by another statewide hospital fee program, and exclusive of the supplemental payments specified in subdivision (d), shall include consideration of the new hospital's projected Medi-Cal costs for providing the services as set forth in this section.

(1) (A) Subject to paragraph (2) of subdivision (c), and notwithstanding any other law, Medi-Cal payments made to the new hospital on a fee-for-service basis, including payments made pursuant to the methodology authorized under Section 14105.28 or successor or modified methodologies, shall provide compensation that is, at a minimum, equal to 100 percent of the new hospital's projected Medi-Cal costs for each fiscal year.

(B) To the extent supplemental payments are necessary for any fiscal year to meet the applicable minimum reimbursement level as described in subparagraph (A), the department shall seek federal approval, as necessary, to enable the new hospital to receive the Medi-Cal supplemental payments.

(2) (A) To the extent permitted under federal law, the department shall require Medi-Cal managed care plans serving Medi-Cal beneficiaries in the County of Los Angeles to pay the new hospital amounts determined necessary to meet compensation levels for services provided to managed care enrollees that are no less than the amount to which the new hospital would have received on a fee-for-service basis pursuant to paragraph (1). The amounts shall be determined in consultation with the new hospital, the County of Los Angeles, and the Medi-Cal managed care plan, and shall be subject to paragraph (2) of subdivision (c).

(B) Consistent with federal law, the capitation rates paid to Medi-Cal managed care plans serving Medi-Cal beneficiaries in the County of Los Angeles shall be determined to reflect the obligations described in subparagraph (A). The increased payments to Medi-Cal managed care plans that would be paid consistent with actuarial certification and enrollment in the absence of this paragraph shall not be reduced as a consequence of this paragraph.

(C) A Medi-Cal managed care plan receiving the increased payments described in subparagraph (B) shall not impose a fee or retention amount, or reduce other payments to the new hospital

that would result in a direct or indirect reduction to the amounts required to be paid under subparagraph (A).

(3) This subdivision shall not be construed to result in payments that are less than the rates of compensation that would be payable to the new hospital for Medi-Cal services without regard to the requirements of paragraphs (1) and (2).

(c) If the applicable minimum reimbursement levels required in subdivision (b) result in payments to the new hospital that are above the levels of compensation that would have been payable absent that requirement, and to the extent a nonfederal share is necessary with respect to the additional compensation, the following provisions shall apply:

(1) (A) For each fiscal year through the 2016–17 fiscal year, General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program shall fund the nonfederal share of the additional payments to the extent that the rates of compensation for inpatient hospital services provided by the new hospital that would have been payable in the absence of the requirements of subdivision (b) are less than 77 percent of the new hospital's projected Medi-Cal costs. With respect to the nonfederal share of the additional payments described in paragraph (2) of subdivision (b), however, this subparagraph shall be applicable only for inpatient services provided in conjunction with the implementation of Section 14182, and other mandatory managed care enrollment provisions implemented subsequent to January 1, 2011.

(B) For the 2017–18 fiscal year and each subsequent fiscal year, General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program shall fund the nonfederal share of the additional payments to the extent that the rates of compensation for inpatient hospital services provided by the new hospital that would have been payable in the absence of the requirements of subdivision (b) are less than 72 percent of the new hospital's projected Medi-Cal costs. With respect to the nonfederal share of the additional payments described in paragraph (2) of subdivision (b), however, this subparagraph shall be applicable only for inpatient services provided in conjunction with the implementation of Section 14182, and other mandatory managed care enrollment provisions implemented subsequent to January 1, 2011.

(2) (A) –The remaining necessary nonfederal share of the additional payments, after taking into account the General Fund

amounts described in paragraph (1), 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. To the extent the county elects not to fund any portion of the remaining necessary nonfederal share, the applicable minimum reimbursement levels required in subdivision (b) shall be reduced accordingly.

(B) ~~Any public~~ *Public* funds transferred to the state for payments to the new hospital as described in this paragraph with respect to a fiscal period shall be expended solely for the nonfederal share of the payments. Notwithstanding any other law, except as provided in subdivision (m), the department shall not impose any fee or assessment in connection with the transferred funds or the payments provided for under this section, including, but not limited to, reimbursement for state staffing or administrative costs.

(C) If any portion of the funds transferred pursuant to this paragraph is not expended, or not expected to be expended, for the specified rate amounts required in subdivision (b), the unexpended funds shall be returned promptly to the transferring county.

(3) This subdivision shall not be construed to reduce the nonfederal share of payments funded by General Fund amounts below the amounts that would be funded without regard to the minimum payment levels required under this section.

(d) (1) In addition to payments meeting the applicable minimum reimbursement levels described in subdivision (b), the new hospital shall be eligible to receive supplemental payments. The supplemental payments shall be provided annually in amounts determined in consultation with the new hospital and the County of Los Angeles, and subject to paragraph (3).

(2) The department shall seek federal approval, as necessary, to enable the new hospital to receive supplemental payments that are in addition to the applicable minimum reimbursement levels required in subdivision (b). The supplemental payments may be provided for under the mechanisms described in Sections 14166.12 and 14301.4 or successor or modified mechanisms, or any other federally permissible payment mechanism. Supplemental payments that are payable through a Medi-Cal managed care plan shall be subject to the same requirements described in subparagraph (C) of paragraph (2) of subdivision (b).

(3) If a nonfederal share is necessary to fund the supplemental payments, the County of Los Angeles may voluntarily provide public funds that are transferred to the state pursuant to Section 14164. The county may specify the type of supplemental payment for which it is transferring funds, and any other category relevant to the payment, including, but not limited to, fee-for-service supplemental payment, managed care rate range payment, and payment for services rendered to newly eligible beneficiaries as defined in subdivision (s) of Section 17612.2.

(4) ~~Any public~~ *Public* funds transferred to the state for supplemental payments to the new hospital as described in this subdivision with respect to a fiscal period shall be expended solely for the nonfederal share of the supplemental payments as specified pursuant to paragraph (3). Notwithstanding any other law, subdivision (o) of Section 14166.12 shall not apply, and the department shall not assess the fee described in subdivision (d) of Section 14301.4, or any other similar fee, except as provided in subdivision (m). If any portion of the funds transferred pursuant to this subdivision is not expended, or not expected to be expended, for the specified supplemental payments, the unexpended funds shall be returned promptly to the transferring county.

(e) Notwithstanding any other law, all payments provided for under this section shall be treated as having been paid for purposes of any determination of available room under the federal upper payment limit, as specified in Part 447 of Title 42 of the Code of Federal Regulations, with respect to the applicable class of services and class of health care provider.

(f) (1) 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.

(2) "Medi-Cal managed care plan" shall have the meaning provided in paragraph (5) of subdivision (b) of Section 14199.1.

(g) For purposes of this article, the new hospital's projected Medi-Cal costs shall be based on the cost finding principles applied under subdivision (b) of Section 14166.4, except that the projected

costs shall not be multiplied by the federal medical assistance percentage 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 projected Medi-Cal costs shall be determined prior to the start of each fiscal year in consultation with the new hospital, using the best available and reasonable current estimates or projections made with respect to the new hospital for an annual period, and shall be considered final as of the start of the fiscal year for purposes of the minimum payment levels described in subdivision (b).

(h) Notwithstanding any other law, the new hospital shall not be eligible to receive payments pursuant to Section 14166.11. This subdivision, however, shall not be construed to preclude the hospital from eligibility for disproportionate share status, or from receipt of any federal Medicaid disproportionate share hospital payments to which it would be entitled, pursuant to the Medi-Cal State Plan.

(i) Except as specified in subdivision (h), this section shall not 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.

(j) Notwithstanding any other law, for purposes of Article 12 (commencing with Section 17612.1) of Chapter 6 of Part 5, the intergovernmental transfers described in this section as reflected in the actual net expenditures for all operating budget units of the County of Los Angeles Department of Health Services shall not be reduced in any manner in the determination of total costs under paragraph (6) of subdivision (b) of Section 17612.5, by application of the imputed other entity intergovernmental transfer amounts or otherwise.

(k) 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 letters, all-county letters, or similar instructions, without taking further regulatory action. This section shall not be construed to preclude the department from adopting regulations.

(*l*) (1) The department shall obtain federal approvals or waivers as necessary to implement this section and to obtain federal

matching funds to the maximum extent permitted by federal law. 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, any necessary federal approvals are obtained.

(m) As part of its voluntary participation to provide the nonfederal share of payments under this section, the County of Los Angeles shall agree to reimburse the state for the nonfederal share of state staffing and administrative costs directly attributable to the cost of administrating the payments and associated intergovernmental transfers. The costs shall be documented and subject to review by the county.

SEC. 612. Section 14166.22 of the Welfare and Institutions Code is amended to read:

14166.22. (a) To the extent required to maximize available federal funds under the demonstration project and to the extent authorized by the Special Terms and Conditions for the demonstration project, the department may claim federal reimbursement for expenditures, consistent with the equitable distribution established under this article, in the following priority order:

(1) The medically indigent adults long-term care program.

(2) The Genetically Handicapped ~~Person's~~ *Persons* Program established pursuant to Article 1 (commencing with Section 125125) of Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.

(3) The Breast and Cervical Cancer Treatment Program established pursuant to Article 1.5 (commencing with Section 104160) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code.

(4) The California Children's Services Program established pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code.

(b) Notwithstanding any other ~~state~~ law, the federal reimbursement received as a result of a claim made pursuant to subdivision (a) shall be used to create General Fund savings solely for the department for use in support of safety net hospitals under the demonstration project.

(c) The federal reimbursement received as a result of a claim made pursuant to subdivision (a) is hereby appropriated to the department for the program in which the claimed expenditures were made.

(d) An amount of General Fund moneys appropriated to the department for programs specified in subdivision (a) equal to the amount of federal reimbursement identified pursuant to subdivision (c) is hereby reappropriated to the Health Care Deposit Fund to be used for the purposes set forth in this article.

SEC. 613. The heading of Article 5.22 (commencing with Section 14167.35) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 5.22. Quality Assurance Fee Act

SEC. 614. Section 15151 of the Welfare and Institutions Code is amended to read:

15151. During ~~such~~ *the* times ~~as~~ *that* grants-in-aid are provided or made available by the United States government for the purpose of defraying any portion of the costs of administration incurred for public assistance, the State Treasurer shall pay to each county an amount equal to ~~such~~ *the* county's proportionate share of the sum so granted for the cost of administration, which amount shall be used exclusively for paying ~~such~~ *the* administrative costs. Except as provided in Section 15151.5, the department shall determine the portion of the amount so granted or made available for administrative costs to be paid to the counties, which portion shall be determined pursuant to rules and regulations of the department and shall be not less than one-half of the amount so granted or made available. The department shall adopt rules and regulations ~~which~~ *that* shall be of uniform application for determining the proportionate shares of the respective counties of the portion so determined to be paid to ~~such~~ *those* counties.

This section shall become operative and shall supersede ~~subdivision~~ *provision* (2) of Section 15150 during ~~such~~ *the* times ~~as~~ *that* grants by the United States government, provided or made available to defray any portion of administrative costs incurred for public assistance, are not computed as a proportion of ~~such~~ *those* costs of administration. Whenever this section is in effect, all other

sections referring to Section 15150 shall also be deemed to refer to this section.

SEC. 615. Section 15862 of the Welfare and Institutions Code is amended to read:

15862. (a) The provisions of this chapter shall be implemented only if all of the following conditions are met:

(1) Federal financial participation is available for this purpose.

(2) Federal participation is approved.

(3) The department determines that federal funds under Title XXI of the Social Security Act remain available after providing funds for all current enrollees and eligible children that are likely to enroll in the optional targeted low-income children group and, to the extent funded through the federal Children's Health Insurance Program (Subchapter 21 (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code), the Medi-Cal Access program and Medi-Cal program, as determined by a Department of Finance estimate.

(4) Funds are appropriated specifically for this purpose.

(b) The department may accept funding necessary for the preparation of the federal waiver applications or state plan amendments described in Section 15861 from a not-for-profit group or foundation, but only to the extent that ~~such~~ *the* funding may be eligible for federal financial participation.

SEC. 616. Section 15885.5 of the Welfare and Institutions Code is amended to read:

15885.5. ~~Where~~ *If* more than one participating health plan is offered, the department shall make available to applicants eligible to enroll in the program sufficient information to make an informed choice among the various types of participating health plans. Each applicant shall be issued an appropriate document setting forth or summarizing the services to which an enrollee is entitled, procedures for obtaining major risk medical coverage, a list of contracting health plans and providers, and a summary of grievance procedures.

SEC. 617. Section 15894.5 of the Welfare and Institutions Code is amended to read:

15894.5. ~~From~~ *(a) From* money appropriated by the Legislature to the fund, the department may expend sufficient funds to carry out the purposes of this chapter and of Section

10127.16 of the Insurance Code, and Section 1373.622 of the Health and Safety Code.

~~However,~~

(b) However, the state ~~shall~~ *is* not ~~be~~ liable beyond the assets of the fund for any obligations incurred, or liabilities sustained, in the operation of the California Major Risk Medical Insurance Program or for the expenditures described in Section 10127.16 of the Insurance ~~Code,~~ *Code* and Section 1373.622 of the Health and Safety Code.

SEC. 618. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. A child ~~shall be~~ *is* eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (*l*), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a tribal customary adoption, if the court has given full faith and credit to a tribal customary adoption order as provided for pursuant to paragraph (2) of subdivision (e) of Section 366.26, or, in the case of a nonminor dependent the court has dismissed dependency or transitional jurisdiction subsequent to the approval of the nonminor dependent, adoption petition pursuant to subdivision (f) of Section 366.31.

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of three years or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of

Section 4512, including those determined to require out-of-home nonmedical care, as described in Section 11464.

(c) The need for an adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(3) Effective January 1, 2012, he or she is under 19 years of age, effective January 1, 2013, he or she is under 20 years of age, and effective January 1, 2014, he or she is under 21 years of age and as described in Section 10103.5, and has attained 16 years of age before the adoption assistance agreement became effective, and one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403 applies.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) The prospective adoptive parent or any adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to Section 671(a)(20)(A) and (C) of Title 42 of the United States Code.

(i) To be eligible for state funding, the child is the subject of an agency adoption, as defined in Section 8506 of the Family Code, and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department pursuant to Section 8805 or 8918 of the Family Code.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24. Notwithstanding Section 8600.5 of the Family Code, for purposes of this subdivision a tribal customary adoption shall be considered an agency adoption.

(j) To be eligible for federal funding, in the case of a child who is not an applicable child for the federal fiscal year as defined in subdivision (n), the child satisfies any of the following criteria:

(1) Prior to the finalization of an agency adoption, as defined in Section 8506 of the Family Code, or an independent adoption, as defined in Section 8524 of the Family Code, is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, as determined and documented by the federal Social Security Administration.

(2) The child was removed from the home of a specified relative and the child would have been AFDC eligible in the home of removal according to Section 606(a) or 607 of Title 42 of the United States Code, as those sections were in effect on July 16, 1996, in the month of the voluntary placement agreement or in the month court proceedings are initiated to remove the child, resulting in a judicial determination that continuation in the home would be contrary to the child's welfare. The child must have been living with the specified relative from whom he or she was removed within six months of the month the voluntary placement agreement was signed or the petition to remove was filed.

(3) The child was voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and there is a petition to the court to remove the child from the home within six months

of the time the child lived with a specified relative and a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(4) Title IV-E foster care maintenance was paid on behalf of the child's minor parent and covered the cost of the minor parent's child while the child was in the foster family home or child care institution with the minor parent.

(5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(k) To be eligible for federal funding, in the case of a child who is an applicable child for the federal fiscal year, as defined in subdivision (n), the child meets any of the following criteria:

(1) At the time of initiation of adoptive proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or a voluntary relinquishment.

(2) He or she meets all medical or disability requirements of Title XVI with respect to eligibility for supplemental security income benefits.

(3) He or she was residing in a foster family home or a child care institution with the child's minor parent, and the child's minor parent was in the foster family home or child care institution pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or voluntary relinquishment.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(5) The nonminor dependent, as described in subdivision (v) of Section 11400, is the subject of an adoption pursuant to subdivision (f) of Section 366.31.

(*l*) The child is a citizen of the United States or a qualified alien as defined in Section 1641 of Title 8 of the United States Code. If the child is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the child must meet the five-year residency requirement pursuant to Section 673(a)(2)(B) of Title 42 of the United States Code, unless the child is a member of one of the excepted groups pursuant to Section 1612(b) of Title 8 of the United States Code.

(m) A child or nonminor shall be eligible for Adoption Assistance Program benefits if the following conditions are met:

(1) The child or nonminor received Adoption Assistance Program benefits with respect to a prior adoption and the child or nonminor is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's or nonminor's adoptive parents died and the child or nonminor meets the special needs criteria described in subdivisions (a) to (c), inclusive. When a nonminor is receiving Adoption Assistance Program benefits after 18 years of age and the nonminor's adoptive parents die, the juvenile court may resume dependency jurisdiction over the nonminor pursuant to ~~subdivision (e) of~~ Section ~~388.~~ *388.1*

(2) To receive federal funding, the citizenship requirements in subdivision (*l*).

(n) (1) Except as provided in this subdivision, "applicable child" means a child for whom an adoption assistance agreement is entered into under this section during any federal fiscal year described in this subdivision if the child attained the applicable age for that federal fiscal year before the end of that federal fiscal year.

(A) For federal fiscal year 2010, the applicable age is 16 years.

(B) For federal fiscal year 2011, the applicable age is 14 years.

(C) For federal fiscal year 2012, the applicable age is 12 years.

(D) For federal fiscal year 2013, the applicable age is 10 years.

(E) For federal fiscal year 2014, the applicable age is eight years.

(F) For federal fiscal year 2015, the applicable age is six years.

(G) For federal fiscal year 2016, the applicable age is four years.

(H) For federal fiscal year 2017, the applicable age is two years.

(I) For federal fiscal year 2018 and thereafter, any age.

(2) Beginning with the 2010 federal fiscal year, the term "applicable child" shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:

(A) He or she has been in foster care under the responsibility of the state for at least 60 consecutive months.

(B) He or she meets the requirements of subdivision (k).

(3) Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:

(A) He or she is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).

(B) He or she is to be placed in the same adoption placement as an "applicable child" for the federal fiscal year who is their sibling.

(C) He or she meets the requirements of subdivision (k).

SEC. 619. Section 16500.5 of the Welfare and Institutions Code is amended to read:

16500.5. (a) (1) The Legislature hereby declares its intent to encourage the continuity of the family unit by:

(A) (i) Providing family preservation services.

(ii) For purposes of this subdivision, "family preservation services" means intensive services for families whose children, without these services, would be subject to any of the following:

(I) Be at imminent risk of out-of-home placement.

(II) Remain in existing out-of-home placement for longer periods of time.

(III) Be placed in a more restrictive out-of-home placement.

(B) Providing supportive services for those children within the meaning of Sections 360, 361, and 364 when they are returned to the family unit or when a minor will probably soon be within the jurisdiction of the juvenile court pursuant to Section 301.

(C) Providing counseling and family support services designed to eradicate the situation that necessitated intervention.

(2) The Legislature finds that maintaining abused and neglected children in foster care grows increasingly costly each year, and

that adequate funding for family services that might enable these children to remain in their homes is not as readily available as funding for foster care placement.

(3) The Legislature further finds that other state bodies have addressed this problem through various systems of flexible reimbursement in child welfare programs that provide for more intensive and appropriate services to prevent foster care placement or significantly reduce the length of stay in foster care.

(b) It is the intent of the Legislature that family preservation and support services in California conform to the federal definitions contained in Section 431 of the Social Security Act as contained in Public Law 103-66, the Omnibus Budget Reconciliation Act of 1987. The Legislature finds and declares that California's existing family preservation programs meet the intent of the federal Promoting Safe and Stable Families program.

(c) (1) Services that may be provided under this program may include, but are not limited to, counseling, mental health treatment and substance abuse treatment services, including treatment at a residential substance abuse treatment facility that accepts families, parenting, respite, day treatment, transportation, homemaking, and family support services. Each county that chooses to provide mental health treatment and substance abuse treatment shall identify and develop these services in consultation with county mental health treatment and substance abuse treatment agencies. Additional services may include those enumerated in Sections 16506 and 16507. The services to be provided pursuant to this section may be determined by each participating county. Each county may contract with individuals and organizations for services to be provided pursuant to this section. Each county shall utilize available private nonprofit resources in the county prior to developing new county-operated resources when these private nonprofit resources are of at least equal quality and costs as county-operated resources and shall utilize available county resources of at least equal quality and cost prior to new private nonprofit resources.

(2) Participating counties authorized by this subdivision shall provide specific programs of direct services based on individual family needs as reflected in the service plans to families of the following:

(A) Children who are dependent children not taken from physical custody of their parents or guardians pursuant to Section 364.

(B) Children who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361.

(C) Children who it is determined will probably soon be within the jurisdiction of the juvenile court pursuant to Section 301.

(D) Upon approval of the department, children who have been adjudged wards of the court pursuant to Sections 601 and 602.

(E) Upon approval of the department, families of children subject to Sections 726 and 727.

(F) Upon approval of the department, children who are determined to require out-of-home placement pursuant to Section 7572.5 of the Government Code.

(3) The services shall only be provided to families whose children will be placed in out-of-home care without the provision of services or to children who can be returned to their families with the provision of services.

(4) The services selected by ~~any~~ *a* participating county shall be reasonable and meritorious and shall demonstrate cost-effectiveness and success at avoiding out-of-home placement, or reducing the length of stay in out-of-home placement. A county shall not expend more funds for services under this subdivision than that amount which would be expended for placement in out-of-home care.

(5) The program in each county shall be deemed successful if it meets the following standards:

(A) Enables families to resolve their own problems, effectively utilize service systems, and advocate for their children in educational and social agencies.

(B) Enhancing family functioning by building on family strengths.

(C) At least 75 percent of the children receiving services remain in their own home for six months after termination of services.

(D) During the first year after services are terminated:

(i) At least 60 percent of the children receiving services remain at home one year after services are terminated.

(ii) The average length of stay in out-of-home care of children selected to receive services who have already been removed from their home and placed in out-of-home care is 50 percent less than

the average length of stay in out-of-home care of children who do not receive program services.

(E) Two years after the termination of family preservation services:

(i) The average length of out-of-home stay of children selected to receive services under this section who, at the time of selection, are in out-of-home care, is 50 percent less than the average length of stay in out-of-home care for children in out-of-home care who do not receive services pursuant to this section.

(ii) At least 60 percent of the children who were returned home pursuant to this section remain at home.

(6) Funds used for services provided under this section shall supplement, not supplant, child welfare services funds available for services pursuant to Sections 16506 and 16507.

(7) Programs authorized after the original pilot projects shall submit data to the department upon the department's request.

(d) (1) A county welfare department social worker or probation officer may, pursuant to an appropriate court order, return a dependent minor or ward of the court removed from the home pursuant to Section 361 to his or her home, with appropriate interagency family preservation program services.

(2) The county probation department may, with the approval of the State Department of Social Services, through an interagency agreement with the county welfare department, refer cases to the county welfare department for the direct provision of services under this subdivision.

(e) Foster care funds shall remain within the administrative authority of the county welfare department and shall be used only for placement services or placement prevention services or county welfare department administrative cost related to the interagency family preservation program.

(f) To the extent permitted by federal law, any federal funds provided for services to families and children may be utilized for the purposes of this section.

(g) A county may establish family preservation programs that serve one or more geographic areas of the county, subject to the approval of the State Department of Social Services.

(1) All funds expended by a county for activities under this section shall be expended by the county in a manner that will maximize eligibility for federal financial participation.

(2) ~~Any~~ *A* county, subject to the approval of the State Department of Social Services, may claim federal financial participation, if allowable and available, as provided by the State Department of Social Services in the federal Promoting Safe and Stable Families program in accordance with the federal guidelines and regulations for that county's AFDC–FC expenditures pursuant to subdivision (d) of Section 11450, for children subject to Sections 300, 301, 360, and 364, in advance, provided that the county conducts a program of family reunification and family maintenance services for families receiving these services pursuant to Sections 300, 301, 360, and 364, and as permitted by the department, children subject to Sections 601, 602, 726, and ~~727,~~ *727 of this code,* and Section 7572.5 of the Government Code.

(h) In order to maintain federal funding and meet federal requirements, the State Department of Social Services and the Office of Child Abuse Prevention shall provide administrative oversight, monitoring, and consultation to ensure both of the following:

(1) Each county includes in its county plan information that details what services are to be funded under this section and who will be served, and how the services are coordinated with the array of services available in the county. In order to maintain federal funding to meet federal requirements, the State Department of Social Services shall review these plans and provide technical assistance as needed, as provided in Section 10601.2. In order to meet federal requirements, the Office of Child Abuse Prevention shall require counties to submit annual reports, as part of the current reporting process, on program services and children and families served. The annual reporting process shall be developed jointly by the department and county agencies for the purpose of meeting federal reporting requirements.

(2) In order to maximize federal financial participation for the federal Promoting Safe and Stable Families grant, funds expended from this program are in compliance with data-reporting requirements in order to meet federal nonsupplantation requirements in accordance with Section 1357.32(f) of Title 45 of the Code of Federal Regulations, and the 25 percent state match requirement in accordance with Section 1357.32(d) of Title 45 of the Code of Federal Regulations.

(i) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be made with moneys allocated pursuant to ~~Sections~~ *Section* 30025 ~~and 30029.2~~ of the Government Code.

SEC. 620. Section 16513 of the Welfare and Institutions Code, as added by Chapter 1235 of the Statutes of 1978, is amended and renumbered to read:

~~16513.~~

16513.2. Funding of this chapter is subject to the provisions of Part 1.5 (commencing with Section 10100) ~~of this division~~.

SEC. 621. Section 16517 of the Welfare and Institutions Code, as added by Section 2 of Chapter 497 of the Statutes of 1992, is amended and renumbered to read:

~~16517.~~

16517.5. (a) ~~No~~ *A* social worker or probation officer acting as an officer of the court shall *not* make an out-of-home placement of a dependent or ward of the court pursuant to this chapter with any of the following:

(1) ~~Any~~ *A* relative of the social worker or probation officer responsible for the placement of the child.

(2) The spouse of ~~any~~ *a* relative described in paragraph (1).

(b) ~~No~~ *A* social worker or probation officer acting as an officer of the court shall *not* receive compensation for the out-of-home placement of a dependent or ward of the court other than the compensation received as an employee of the county or the state.

SEC. 622. Section 16524.7 of the Welfare and Institutions Code is amended to read:

16524.7. (a) (1) There is hereby established the Commercially Sexually Exploited Children Program. This program shall be administered by the State Department of Social Services.

(2) The department, in consultation with the County Welfare Directors Association of California, shall develop an allocation methodology to distribute funding for the program. Funds allocated pursuant to this section shall be utilized to cover expenditures related to the costs of implementing the program, prevention and intervention services, and training related to children who are victims of commercial sexual exploitation.

(3) (A) Funds shall be provided to counties that elect to participate in the program for the provision of training to county

children's services workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation and trafficking, and to foster caregivers for the prevention and identification of potential victims.

(B) The department shall contract to provide training for county workers and foster caregivers. Training shall be selected and contracted for in consultation with the County Welfare Directors Association, county children's services representatives, and other stakeholders. The department shall consult and collaborate with the California Community Colleges Chancellor's Office to provide training for foster parents of licensed foster family homes.

(4) Funds provided to the counties electing to participate in the program shall be used for prevention activities, intervention activities, and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation. These activities and services may include, but are not limited to, all of the following:

(A) Training foster children to help recognize and help avoid commercial sexual exploitation. Counties may target training activities to foster children who are at higher risk of sexual exploitation.

(B) Engaging survivors of commercial sexual exploitation ~~to: (i) provide~~ *to do all of the following:*

(i) Provide support to county staff who serve children who are victims of commercial sexual ~~exploitation; (ii) for~~ *exploitation.*

(ii) For activities that may include training and technical ~~assistance; and (iii) to~~ *assistance.*

(iii) To serve as advocates for and perform outreach and support to children who are victims of commercial sexual exploitation.

(C) Consulting and coordinating with homeless youth shelters and other service providers who work with children who are disproportionately at risk of, or involved in, commercial sexual exploitation, including, but not limited to, lesbian, gay, bisexual, and transgender youth organizations, regarding outreach and support to children who are victims of commercial sexual exploitation.

(D) Hiring county staff trained and specialized to work with children who are victims of commercial sexual exploitation to support victims and their caregivers, and to provide case

management to support interagency and cross-departmental response.

(E) Providing supplemental foster care rates for placement of child victims of commercial sexual exploitation adjudged to be within the definition of Section 300 ~~to be paid~~ to foster homes, relatives, foster family agency certified homes, or other specialized placements ~~to provide~~ for the increased care and supervision needs of the victim in accordance with Section 11460.

(b) Funds allocated for the program shall not supplant funds for existing programs.

(c) (1) In order to ensure timely access to services to which commercially sexually exploited children are entitled ~~to~~ as dependents in foster care, in participating counties, county agency representatives from mental health, probation, public health, and substance abuse disorders shall participate in the case planning and assist in linking commercially sexually exploited children to services that serve children who are in the child welfare system and that are identified in the child's case plan and may include other stakeholders as determined by the county.

(2) The entities described in paragraph (1) shall provide input to the child welfare services agency regarding the services and supports needed for *these* children to support treatment needs and aid in their recovery and may assist in linking these children to services that are consistent with their county plans submitted to the department pursuant to subdivision (d).

(d) (1) A county electing to receive funding from the Commercially Sexually Exploited Children Program pursuant to this chapter shall submit a plan describing how the county intends to utilize the funds allocated pursuant to paragraph (4) of subdivision (a).

(2) The county shall submit a plan to the department pursuant to a process developed by the department, in consultation with the County Welfare Directors Association. The plan shall include documentation indicating the county's collaboration with county partner agencies and children-focused entities, which shall include the formation of a multidisciplinary team to serve children pursuant to this chapter.

A multidisciplinary team serving a child pursuant to this chapter shall include, but is not limited to, appropriate staff from the county child welfare, probation, mental health, substance abuse disorder,

and public health departments. Staff from a local provider of services to this population, local education agencies, and local law enforcement, and survivors of commercial sexual exploitation and trafficking may be included on the team.

SEC. 623. Section 16524.8 of the Welfare and Institutions Code is amended to read:

16524.8. (a) Each county electing to receive funds from the Commercially Sexually Exploited Children Program pursuant to this chapter shall develop an interagency protocol to be utilized in serving sexually exploited children. The county protocol shall be developed by a team led by a representative of the county human services department and shall include representatives from each of the following agencies:

(1) The county probation department.
(2) The county mental health department.
(3) The county public health department.
(4) The juvenile court in the county.

The team may include, but shall not be limited to, representatives from local education agencies, local law enforcement, survivors of sexual exploitation and trafficking, and other providers as necessary.

(b) At a minimum, the interagency protocol shall address the provision of services to children who have been sexually exploited and are within the definition of Section 300, including, but not limited to, the use of a multidisciplinary team approach to provide coordinated case management, service planning, and services to *these* children.

SEC. 624. Section 16524.9 of the Welfare and Institutions Code is amended to read:

16524.9. The State Department of Social Services, in consultation with the County Welfare Directors Association, shall ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are commercially sexually exploited, including children who are referred to the child abuse ~~hotline,~~ *hotline and* children currently served by county child welfare and probation departments who are subsequently identified as victims of commercial sexual exploitation.

(a) The department shall disseminate any necessary instructions on data entry to the county child welfare and probation department staff.

(b) The department shall implement this section no later than June 1, 2015.

SEC. 625. The heading of Chapter 7 (commencing with Section 16997.1) of Part 4.7 of Division 9 of the Welfare and Institutions Code is repealed.

~~Chapter 7. Operation of Part~~

SEC. 626. The heading of Chapter 6 (commencing with Section 17500) of Part 5 of Division 9 of the Welfare and Institutions Code, as added by Section 1 of Chapter 90 of the Statutes of 1988, is amended and renumbered to read:

Chapter ~~6.~~*5.5.* Unemployed or Displaced Workers

SEC. 627. Section 17603 of the Welfare and Institutions Code is amended to read:

17603. (a) This subdivision ~~shall~~ only ~~apply~~ *applies* until the end of the 2012–13 fiscal year. On or before the 27th day of each month, the Controller shall allocate to the local health and welfare trust fund health accounts the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund, in accordance with paragraphs (1) and (2):

(1) For the 1991–92 fiscal year, allocations shall be made in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.5046
Alpine	0.0137
Amador	0.1512
Butte	0.8131
Calaveras	0.1367
Colusa	0.1195
Contra Costa	2.2386
Del Norte	0.1340

El Dorado	0.5228
Fresno	2.3531
Glenn	0.1391
Humboldt	0.8929
Imperial	0.8237
Inyo	0.1869
Kern	1.6362
Kings	0.4084
Lake	0.1752
Lassen	0.1525
Los Angeles	37.2606
Madera	0.3656
Marin	1.0785
Mariposa	0.0815
Mendocino	0.2586
Merced	0.4094
Modoc	0.0923
Mono	0.1342
Monterey	0.8975
Napa	0.4466
Nevada	0.2734
Orange	5.4304
Placer	0.2806
Plumas	0.1145
Riverside	2.7867
Sacramento	2.7497
San Benito	0.1701
San Bernardino	2.4709
San Diego	4.7771
San Francisco	7.1450
San Joaquin	1.0810
San Luis Obispo	0.4811
San Mateo	1.5937
Santa Barbara	0.9418
Santa Clara	3.6238
Santa Cruz	0.6714
Shasta	0.6732
Sierra	0.0340
Siskiyou	0.2246
Solano	0.9377

Sonoma	1.6687
Stanislaus	1.0509
Sutter	0.4460
Tehama	0.2986
Trinity	0.1388
Tulare	0.7485
Tuolumne	0.2357
Ventura	1.3658
Yolo	0.3522
Yuba	0.3076
Berkeley	0.0692
Long Beach	0.2918
Pasadena	0.1385

(2) For the 1992–93 fiscal year and fiscal years thereafter until the commencement of the 2013–14 fiscal year, the allocations to each county and city and county shall equal the amounts received in the prior fiscal year by each county, city, and city and county from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

(b) (1) For the 2013–14 fiscal year, on the 27th day of each month, the Controller shall allocate, in the same proportion as funds in paragraph (2) of subdivision (a) were allocated, to each county's and city and county's local health and welfare trust fund health accounts, the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund.

(2) (A) Beginning January 2014 and for the remainder of the 2013–14 fiscal year, on or before the 27th of each month, the Controller shall transfer to the Family Support Subaccount from the Health Subaccount amounts determined pursuant to a schedule prepared by the Department of Finance in consultation with the California State Association of Counties. Cumulatively, no more than three hundred million dollars ($300,000,000) shall be transferred.

(B) Every month, after the transfers in subparagraph (A) have occurred, the remainder shall be allocated to the counties and cities and counties in the same proportions as funds in paragraph (2) of subdivision (a) were allocated.

(C) For counties participating in the County Medical Services Program, transfers from each county shall not be greater than the monthly amount the county would otherwise pay pursuant to paragraph (2) of subdivision (j) of Section 16809 for participation in the County Medical Services Program. Any difference between the amount paid by these counties and the proportional share of the three hundred million dollars ($300,000,000) calculated as payable by these counties and the County Medical Services Program shall be paid from the funds available for allocation to the County Medical Services Program in accordance with the Welfare and Institutions Code.

(3) For the 2013–14 fiscal year, the Controller, using the same timing and criteria used in paragraph (1), shall allocate to each city, not to include a city and county, funds that shall equal the amounts received in the prior fiscal year by each city from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

(c) (1) ~~(A)~~ For the 2014–15 fiscal year and for every fiscal year thereafter, the Department of Finance, in consultation with the California State Association of Counties, shall calculate the amount each county or city and county shall contribute to the Family Support Subaccount in accordance with Section 17600.50.

~~(B)~~

(2) On or before the 27th of each month, the Controller shall transfer, based on a schedule prepared by the Department of Finance in consultation with the California State Association of Counties, from the funds deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the Family Support Subaccount, funds that equal, over the course of the year, the amount determined in ~~subparagraph (A)~~ *paragraph (1)* pursuant to a schedule provided by the Department of Finance.

~~(C)~~

(3) After the transfer in ~~subparagraph (B)~~ *paragraph (2)* has occurred, the Controller shall allocate on or before the 27th of each month to health account in the local health and welfare trust fund of every county and city and county from a schedule prepared by the Department of Finance, in consultation with the California State Association of Counties, any funds remaining in the Health Account from the funds deposited and remaining unexpended and

unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund. The schedule shall be prepared as the allocations would have been distributed pursuant to paragraph (2) of subdivision (a).

~~(D)~~

(4) For the 2014–15 fiscal year and for every fiscal year thereafter, the Controller, using the same timing and criteria as had been used in paragraph (2) of subdivision (a), shall allocate to each city, not to include a city and county, funds that equal the amounts received in the prior fiscal year by each city from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

SEC. 628. The heading of Chapter 4.5 (commencing with Section 18260) of Part 6 of Division 9 of the Welfare and Institutions Code, as added by Chapter 75 of the Statutes of 2006, is amended and renumbered to read:

CHAPTER ~~4.5.~~*4.45.* CHILD WELFARE WAIVER DEMONSTRATION PROJECT

SEC. 629. Section 18901.2 of the Welfare and Institutions Code is amended to read:

18901.2. (a) There is hereby created the State Utility Assistance Subsidy (SUAS), a state-funded energy assistance program that shall provide energy assistance benefits to eligible CalFresh households so that the households may receive a standard utility allowance to be used to help meet ~~its~~ *their* energy costs, receive information about energy efficiency, and so that some households may experience an increase in federal Supplemental Nutrition Assistance Program benefits, as well as benefit from paperwork reduction.

(b) To the extent required by federal law, the Department of Community Services and Development shall delegate authority to the State Department of Social Services to design, implement, and maintain SUAS as a program created exclusively for purposes of this section, similar to the federal Low-Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. Sec. 8621 et seq.).

(c) In designing, implementing, and maintaining the SUAS program, the State Department of Social Services shall do all of the following:

(1) Provide households that do not currently qualify for, nor receive, a standard utility allowance, with a SUAS benefit in an amount and frequency sufficient to meet federal requirements specified in Section 2014(e)(6)(C)(iv) of Title 7 of the United States Code if the household meets either of the following requirements:

(A) The household would become eligible for CalFresh benefits if the standard utility allowance was provided.

(B) The household would receive increased benefits if the standard utility allowance was provided.

(2) Provide the SUAS benefit without requiring the applicant or recipient to provide additional paperwork or verification.

(3) Deliver the SUAS benefit using the Electronic Benefit Transfer (EBT) system.

(4) Notwithstanding any other law, notification of a recipient's impending EBT dormant account status shall not be required when the remaining balance in a recipient's account at the time the account becomes inactive is equal to or less than the value of one year of SUAS benefits.

(5) Ensure that receipt of the SUAS benefit pursuant to this section does not adversely affect a CalFresh recipient household's eligibility, reduce a household's CalFresh benefits, or disqualify the applicant or recipient of CalFresh benefits from receiving other public benefits, including other utility benefits, for which it may qualify.

(d) (1) To the extent permitted by federal law, a CalFresh household that receives SUAS benefits in the month of application for new cases or in the previous 12 months for existing cases is entitled to use the full standard utility allowance for the purposes of calculating CalFresh benefits. A CalFresh household shall be entitled to use the full standard utility allowance regardless of whether the SUAS benefit actually is expended by the household.

(2) If use of the full standard utility allowance, instead of the homeless shelter deduction, results in a lower amount of CalFresh benefits for a homeless household, the homeless household shall be entitled to use the homeless shelter deduction instead of the full standard utility allowance.

(e) This section shall not be implemented until funds are appropriated for that purpose by the Legislature in the annual Budget Act or related legislation.

(f) This section shall become operative on July 1, 2014.

SEC. 630. Section 18901.11 of the Welfare and Institutions Code is amended to read:

18901.11. (a) For the purposes of Section 273.5(b)(11)(ii) of Title 7 of the Code of Federal Regulations, an educational program that could be a component of a CalFresh E&T program described in Section 18926.5, as identified by the department, shall be considered an employment and training program under Section 273.7 of Title 7 of the Code of Federal Regulations, unless prohibited by federal law.

(b) The department shall, in consultation with representatives of the office of the Chancellor of the California Community Colleges, offices of the Chancellor of the California State University, University of California Chancellors' offices, the California Workforce Investment Board, county human services agencies, and advocates for students and clients, establish a protocol to identify and verify all potential exemptions to the eligibility rule described in Section 273.5(a) of Title 7 of the Code of Federal Regulations, and to identify and verify participation in educational programs, including, but not limited to, self-initiated placements, that would exempt a student from the eligibility rule described in Section 273.5(a) of Title 7 of the Code of Federal Regulations. To the extent possible, this consultation shall take place through existing workgroups convened by the department.

(c) If the United States Department of Agriculture requires federal approval of the exemption designation established pursuant to subdivision (a) and the protocol established pursuant to subdivision (b), the department shall seek and obtain that approval before publishing the guidance or regulation required by subdivision (e).

(d) (1) This section does not require a county human services agency to offer a particular component, support services, or ~~worker's~~ *workers'* compensation to a student found eligible for an exemption pursuant to this section.

(2) This section does not restrict or require the use of federal funds for the financing of CalFresh E&T programs.

(3) This section does not require a college or university to provide a student with information necessary to verify eligibility for CalFresh.

(e) 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 shall implement this section by all-county letters or similar instructions beginning no later than October 1, 2015, until regulations are adopted. The department shall adopt regulations implementing this section on or before October 1, 2017.

SEC. 631. Section 25 of Chapter 279 of the Statutes of 2005 is amended to read:

Sec. 25. Any section of any act, except Senate Bill ~~1107,~~ *1108,* enacted by the Legislature during the 2005 calendar year that takes effect on or before January 1, 2006, and that amends, amends and renumbers, adds, repeals and adds, or repeals any one or more of the sections affected by this act, shall prevail over this act, whether this 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 2005 calendar year and takes effect on or before January 1, 2006, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

SEC. 632. Section 1 of Chapter 15 of the Statutes of 2014 is amended to read:

Section 1. It is the intent of the Legislature that the Administrative Director of the Division of Workers' Compensation collect data pursuant to subdivision (a) of Section 3702.2 *of the Labor Code* for the purpose of determining whether the extended statute of limitations established by this act provides an adequate timeline for the families of fallen firefighters and peace officers to commence proceedings for the collection of death benefits as provided for in this act, such that the Legislature and the Governor, when considering any extension of the date of repeal of Section 5406.7 of the Labor Code, be informed of the facts surrounding the mortality rate of public safety officers who succumb to these job-related diseases.

SEC. 633. Section 1 of Chapter 243 of the Statutes of 2014 is amended to read:

Section 1. The California Law Revision Commission shall, within existing resources, conduct a study of the standards for recognition of a tribal court or a foreign court judgment, under the Tribal Court Civil Money Judgment Act (Title 11.5 (commencing with Section ~~1730)of~~ *1730) of* Part 3 of the Code of Civil Procedure) and the Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2 (commencing with Section ~~1713)of~~ *1713) of* Title 11 of Part 3 of the Code of Civil Procedure). On or before January 1, 2017, the California Law Revision Commission shall report its findings, along with any recommendations for improvement of those standards, to the Legislature and the Governor.

SEC. 634. Any section of any act enacted by the Legislature during the 2015 calendar year that takes effect on or before January 1, 2016, 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 2015 calendar year and takes effect on or before January 1, 2016, 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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