

Senate Bill No. 837

CHAPTER 32

An act to amend Sections 27, 101, 144, 205.1, 19300, 19300.7, 19302, 19302.1, 19303, 19304, 19305, 19306, 19307, 19310, 19311, 19312, 19315, 19321, 19322, 19323, 19326, 19327, 19328, 19332, 19332.5, 19334, 19335, 19341, 19342, 19343, 19344, 19345, 19347, 19350, 19351, and 19360 of, to amend the heading of Chapter 3.5 (commencing with Section 19300) of Division 8 of, to amend and repeal Section 19320 of, to add Sections 19332.2, 19347.1, 19347.2, 19347.3, 19347.4, 19347.5, 19347.6, 19347.7, and 19347.8 to, to repeal Sections 19313 and 19318 of, to repeal Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of, and to repeal and add Section 19300.5 of, the Business and Professions Code, to amend Sections 2154, 2265, 5100, and 5151 of the Elections Code, to amend Sections 1602, 12025.2, and 12029 of, and to add Section 1617 to, the Fish and Game Code, to amend Section 52452 of, and to add Section 37104 to, the Food and Agricultural Code, to add Section 15283 to, and to add Chapter 6.45 (commencing with Section 30035) to Division 3 of Title 3 of, the Government Code, to amend Sections 11362.769, 11362.777, 44559.11, 50800.5, 51341, 51349, 51455, and 51622 of, to amend and renumber Sections 51344 and 51345 of, to amend and repeal Section 11362.775 of, to add Section 44559.14 to, to add Sections 50912.5 and 51511 to, to repeal Sections 51342, 51347, 51348, 51618, and 51619 of, and to add Chapter 19 (commencing with Section 50899.1) to Part 2 of Division 31 of, the Health and Safety Code, to amend Sections 12206, 17058, 18900.24, and 23610.5 of, to add and repeal Sections 17053.88.5 and 23688.5 of, and to repeal Section 31020 of, the Revenue and Taxation Code, and to amend Sections 1058.5, 1525, 1535, 1552, 1831, 1840, 1845, 1846, and 5103 of, and to add Sections 1847, 1848, and 13149 to, the Water Code, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2016. Filed with
Secretary of State June 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 837, Committee on Budget and Fiscal Review. State government.

(1) Existing law, the Medical Marijuana Regulation and Safety Act, regulates and licenses the cultivation, dispensing, distribution, manufacturing, testing, and transportation of medical cannabis through various state agencies, including, among others, the Bureau of Medical Marijuana Regulation, the Department of Food and Agriculture, and the State Department of Public Health, and authorizes the bureau to adopt rules to carry out the provisions of that act, as specified. That act requires a person

to obtain both a local and state license to engage in commercial cannabis activities, except that the act authorizes, until January 1, 2018, a facility or entity that is operating in compliance with local laws to continue in operation until its application for licensure is approved or denied. That act requires the State Department of Public Health to regulate cannabis testing laboratories, as specified. That act authorizes the bureau to establish appellations of origin for marijuana grown in the state. That act establishes the Medical Marijuana Regulation Safety Act Fund and provides that moneys in the fund shall be available upon appropriation by the Legislature.

This bill would, among other things, change the name of the Medical Marijuana Regulation and Safety Act, the Bureau of Medical Marijuana Regulation, and the Medical Marijuana Regulation and Safety Act Fund to the Medical Cannabis Regulation and Safety Act, the Bureau of Medical Cannabis Regulation, and the Medical Cannabis Regulation and Safety Act Fund, and would change references to medical marijuana or marijuana to medical cannabis or cannabis, respectively. The bill would authorize licensing authorities, as defined, to adopt rules and regulations to carry out the purposes of that act and emergency regulations, as specified. The bill would add additional grounds for disciplinary action, including failure to maintain safe conditions for inspection by a licensing authority. The bill would exempt the premises or person from the above-mentioned requirement to obtain both a local and state license only if certain conditions are met, including that the applicant continues to operate in compliance with all local and state laws, except for possession of a state license. The bill would require the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for diversion and use of water for cannabis cultivation, as specified. The bill would require an applicant for a state license issued by a licensing authority to meet certain requirements, including providing proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of the licensing requirements. The bill would require an applicant for a license for indoor or outdoor cultivation to identify the source of water supply, as specified. The bill would authorize the Department of Food and Agriculture to establish appellations of origin for cannabis grown in the state instead of the bureau. The bill would require the bureau to regulate the laboratory testing of cannabis instead of the State Department of Public Health, as specified. The bill would authorize the State Department of Public Health to, among other things, develop standards for the manufacturing and labeling of all manufactured medical cannabis products and would require the State Department of Public Health, when it has evidence that a medical cannabis product is adulterated or misbranded, to notify the manufacturer, and authorizes the department to take certain actions.

(2) Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream,

or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources. Existing law exempts certain routine maintenance and operation activities from those requirements after the initial notification and agreement and exempts certain emergency activities from those notification and agreement requirements. Existing law authorizes the director of the department to establish a graduated schedule of fees to be charged to any entity subject to the notification and agreement provisions and requires any fees received to be deposited into the Fish and Game Preservation Fund. Under existing law, it is unlawful for any person to violate those notification and agreement provisions, and a person who violates them is also subject to a civil penalty of not more than \$25,000 for each violation.

Existing law, in order to facilitate the remediation and permitting of marijuana cultivation sites, requires the department to adopt regulations to enhance the fees on any entity subject to lake or streambed alteration agreement provisions for marijuana cultivation sites that require remediation. Existing law prohibits this fee schedule from exceeding the fee limits established for lake or streambed alteration agreements.

This bill would exempt an entity from the requirement to enter into a lake or streambed alteration agreement with the department for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if the entity submits the written notification to the department, a copy of the license or renewed license, and the fee required for a lake or streambed alteration agreement, and the department determines certain requirements are met. If an entity receives an exemption, any failure by the entity to comply with certain requirements contained in the license would constitute a violation of the lake or streambed alteration agreement provisions. Because this violation would be a crime, this bill would impose a state-mandated local program.

This bill would also authorize the department to adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a geographic area for a category or categories of activities related to cannabis cultivation that would be in lieu of an individual lake or streambed alteration agreement.

(3) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a statement of diversion and use, and to include specified information, including the purpose of the use.

Existing law requires each person or entity who holds a permit or license to appropriate water, and certain lessors of water, to pay an annual fee according to a schedule established by the board. Existing law requires a person or entity who files a certain application, registration, petition, or request to pay a fee according to a schedule established by the board. Revenues generated from these fees are deposited into the Water Rights Fund, which are available, upon appropriation, for specified purposes.

This bill would require a statement of diversion and use to also include information regarding the amount of water used, if any, for cannabis cultivation. The bill would require a person who files a statement of diversion and use with the board reporting that water was used for cannabis cultivation to pay a fee according to a fee schedule established by the board. The bill would authorize moneys in the Water Rights Fund, upon appropriation, to be expended by the board for the purposes of carrying out water diversion-related provisions of the Medical Marijuana Regulation and Safety Act.

(4) Existing law authorizes the State Water Resources Control Board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements relating to water use.

This bill would authorize the board to issue a cease and desist order against a person who is both diverting or using water for cannabis cultivation and violating, or threatening to violate, certain licensing and water diversion-related provisions of the Medical Marijuana Regulation and Safety Act.

(5) Under existing law, a person who violates a cease and desist order may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs and, for a violation occurring in a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions, may be liable in an amount not to exceed \$10,000 for each day in which the violation occurs. Existing law authorizes a person or entity in violation of a term or condition of a permit, license, certificate, or registration issued by, an order adopted by, or regulations adopted by, the state board to be civilly liable for an amount not to exceed \$500 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill would authorize a person or entity who violates certain licensing and water diversion-related provisions of the Medical Marijuana Regulation and Safety Act to be held liable in an amount not to exceed the sum of (1) \$500 for a violation plus \$250 for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of the person and (2) \$2,500 for each acre-foot of water diverted or used in violation of the applicable requirement. Revenue generated from these penalties would be deposited in the Water Rights Fund.

(6) Existing law requires a person who diverts 10 acre-feet of water per year or more under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage, as specified, and with certain exceptions. Existing law requires the permittee or licensee to maintain a record of all diversion monitoring and the total amount of water diverted and submit these records to the state board, as prescribed. Existing law requires a person who diverts water under a

registration, permit, or license to report to the state board, at least annually, certain information, including the monitoring information, if applicable.

This bill would require a person who diverts water under a registration, permit, or license to also report to the state board, at least annually, information regarding the amount of water used, if any, for cannabis cultivation.

(7) Existing law, the California Seed Law, regulates seed sold in California, and requires each container of agricultural seed that is for sale or sold within this state for sowing purposes to be labeled, as specified, unless the sale is an occasional sale of seed grain by the producer of the seed grain to his or her neighbor for use by the purchaser within the county of production.

This bill would also exclude from the California Seed Law any cannabis seed, as defined, sold or offered for sale in the state.

(8) Existing law, the Milk and Milk Products Act of 1947, regulates the production of milk and milk products in this state. The act specifies standards for butter. The act requires a license from the Secretary of Food and Agriculture for each separate milk products plant or place of business dealing in, receiving, manufacturing, freezing, or processing milk, or any milk product, or manufacturing, freezing, or processing imitation ice cream or imitation ice milk.

This bill would exempt from the Milk and Milk Products Act of 1947 butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medical cannabis at the premises or location that is not required to be licensed as a milk products plant.

(9) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, a credit for a qualified taxpayer, defined as a person responsible for planting a crop, managing the crop, and harvesting the crop from the land, in an amount equal to 10% of the cost that would otherwise be included in, or required to be included in, inventory costs, as specified under federal law, with respect to the donation of fresh fruits or fresh vegetables to a food bank located in California.

This bill would establish similar credits under the Personal Income Tax Law and the Corporation Tax Law for taxable years beginning on or after January 1, 2017, and before January 1, 2022. The bill would, as compared to the existing credits, modify the credit amount to instead equal 15% of the qualified value, as defined, of the fresh fruits or vegetables. The bill would require the credit to be claimed on a timely filed original return.

(10) Existing law requires the Department of Housing and Community Development to administer the Emergency Housing and Assistance Program. Under the program, moneys from the continuously appropriated Emergency Housing and Assistance Fund are available for the purposes of providing shelter, as specified, to homeless persons.

This bill would create the California Emergency Solutions Grants Program, also to be administered by the department. The bill, among other

things, would require the department to make grants under the program to qualifying subrecipients to implement activities that address the needs of homeless individuals and families and assist them to regain stability in permanent housing as quickly as possible, as specified. The bill, to the extent funds are made available by the Legislature, would authorize moneys in the Emergency Housing and Assistance Fund to be used for the purposes of the program.

(11) Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the allocation of state insurance, income, and corporation tax credit amounts among low-income housing projects based on federal law.

This bill, beginning on or after January 1, 2016, and before January 1, 2020, would allow a taxpayer that is allowed a low-income housing tax credit to elect to sell all or a portion of that credit to one or more unrelated parties, as described, for each taxable year in which the credit is allowed for not less than 80% of the amount of the credit to be sold, and would provide for the one-time resale of that credit, as provided. The bill would require the California Tax Credit Allocation Committee to enter into an agreement with the Franchise Tax Board to pay any costs incurred by the Franchise Tax Board in administering these provisions.

Existing law, in the case of a partnership, requires the allocation of the credits, on or after January 1, 2009, and before January 1, 2016, to partners based upon the partnership agreement, regardless of how the federal low-income housing tax credit, as provided, is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, as specified.

This bill would extend the January 1, 2016, date to January 1, 2020.

(12) The Public Safety Communications Act of 2013 (act) establishes the Public Safety Communications Division within the Office of Emergency Services and, among other things, requires the division to acquire, install, equip, maintain, and operate new or existing public safety communications systems and facilities for public safety agencies, as specified. Existing law also authorizes the division to aid local public agencies in the formulation of concepts, methods, and procedures that will improve the operation of nonemergency telephone systems, and requires the division to perform certain duties related to local emergency telephone systems.

This bill, beginning on July 1, 2016, would create the Public Safety Communications Revolving Fund in the State Treasury and require that the fund consist of, among others, revenues from the provision or sale of public safety communications services provided for in the act or of other services rendered by the division, and moneys appropriated and made available by the Legislature for the purposes of the act. The bill would require the Director of Emergency Services to administer the fund and would require the fund to be used, upon appropriation by the Legislature, to pay all costs to the office resulting from the act or from rendering services to the state or public agencies, and to establish reserves, as specified. The bill would require the

reduction of the billing rates for services rendered by the office in a fiscal year if the balance in the fund at the end of the prior fiscal year meets certain conditions, and would require the Controller to transfer payments authorized to be collected by the division for the division's services to the fund, as specified.

(13) Existing law establishes the Capital Access Loan Program to assist small businesses in financing the costs of complying with environmental mandates and the remediation of contamination on their properties, and also establishes within the program the California Americans with Disabilities Act Small Business Capital Access Loan Program to assist small businesses in financing the costs of projects that alter or retrofit existing small business facilities to comply with the federal Americans with Disabilities Act. Under existing law, both programs are administered by the California Pollution Control Financing Authority (authority).

This bill would establish within the Capital Access Loan Program the California Seismic Safety Capital Access Loan Program to assist residential property owners and small business owners in seismically retrofitting residences and small businesses by covering losses on qualified loans for those purposes, as specified. The bill would require the authority to administer the program, including regulations and funds received for the program, as specified. The bill would also authorize the authority to, by regulation, implement loan loss reserve programs to benefit any individual person engaged in qualifying activities that require financing, as specified.

This bill would establish the California Seismic Safety Capital Access Loan Program Fund and would continuously appropriate that fund to the authority to carry out the purposes of the California Seismic Safety Capital Access Loan Program.

(14) Existing law authorizes an individual to contribute amounts in excess of his or her income tax liability for the support of specified funds and allows an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the Habitat for Humanity Fund. Existing law requires moneys in the fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board, the Controller, and the Department of Housing and Community Development for reimbursement of costs, as provided, and the balance to the Department of Housing and Community Development to distribute grants to Habitat for Humanity affiliates in California that meet certain requirements, including having a specified tax-exempt status. Existing law requires the Department of Housing and Community Development to award grants through a competitive, project-specific grant process and be responsible for overseeing that grant program and prohibits a Habitat for Humanity affiliate from using a grant award for administrative expenses or for any purposes outside of California. Existing law also has administrative provisions applicable to voluntary contributions.

This bill would instead require the Department of Housing and Community Development to disburse these moneys to Habitat for Humanity of California, Inc., and would require that organization to submit a plan to the department

for the use and competitive project-specific distribution of moneys to Habitat for Humanity affiliates in California that meet certain requirements, including having a specified tax-exempt status. The bill would allow Habitat for Humanity of California, Inc., to use a specified amount of moneys for administrative costs and would require the organization to submit an annual audit of the program to the department, as provided.

(15) Existing law establishes the California Housing Finance Agency with a primary purpose of meeting the housing needs of persons and families of low or moderate income. Under existing law, the California Housing Loan Insurance Fund, a continuously appropriated fund, is established for the purpose of insuring loans and bonds, and defraying administrative expenses incurred by the agency in operating these programs of loan and bond insurance, as specified. Existing law establishes within the agency a Director of Insurance of the fund who is required to manage and conduct the business and affairs of the insurance fund, as specified.

This bill would repeal provisions relating to the Director of Insurance of the fund. The bill would instead establish the director of enterprise risk management and compliance within the agency, who would be required to assist in the implementation of processes, tools, and systems to identify, assess, measure, manage, monitor, and mitigate risks related to the development of new programs or changes to existing law or regulations that may result in new or increased risk to the agency, as specified.

Existing law requires the agency to obtain an annual audit of the insurance fund's books and accounts regarding its activities by an independent certified public accountant, to provide that audit to the Governor, the chairperson and vice-chairperson of the Senate and Assembly housing policy committees, the Senate and Assembly budget committees, and the Joint Legislative Budget Committee, and to make the audit available for review by interested parties no later than November 1 of each year.

This bill would instead require the agency to obtain an annual agreed-upon procedures engagement of the insurance fund's books and accounts, to provide that agreed-upon procedures engagement to the Governor, the chairperson and vice-chairperson of the Senate and Assembly housing policy committees, the Senate and Assembly budget committees, and the Joint Legislative Budget Committee, and to make the agreed-upon procedures engagement available for review by interested parties no later than November 1 of each year.

By expanding the purposes of a continuously appropriated fund, this bill would make an appropriation.

(16) Existing law, known as the Second Chance Program, requires the Board of State and Community Corrections to administer a competitive grant program that focuses on community-based solutions for reducing recidivism using certain funds allocated pursuant to the Safe Neighborhoods and Schools Act, enacted by Proposition 47 at the November 4, 2014, general election.

This bill would establish the Community-Based Transitional Housing Program, to be administered by the Department of Finance, for the purpose

of providing grants to cities, counties, and cities and counties to increase the supply of transitional housing available to persons previously incarcerated for felony and misdemeanor convictions and funded with moneys appropriated for that purpose in the annual Budget Act or other measure. The bill would require an applicant city, county, or city and county to submit an application between October 1, 2016, and October 1, 2018, that includes specified information and to approve the issuance of a conditional use permit or other local entitlement for a transitional housing facility that meets specified criteria, including that the facility provide transitional housing for a period of not less than 10 years and that it provide additional services to residents. If, after approval of its application, the city, county, or city and county fails to issue the conditional use permit or provide other local entitlement within a specified time period, the bill would provide that the approval of the application is void and the city, county, or city and county is permanently ineligible to submit any future application for funding under the program.

This bill would require the department to approve or deny an application based on specified criteria within 90 days of receipt and determine the amount of funds to award to the applicant city, county, or city and county. The bill would require that the department award up to \$2,000,000 to each successful applicant and that 60% of the award be retained by the city, county, or city and county for certain law enforcement and community outreach purposes and 40% of the award be provided to the facility operator to provide services, enhance security, perform community outreach, or cover start-up costs.

The bill would require the department to submit a report to the Joint Legislative Budget Committee on November 1, 2017, and each November 1 thereafter until November 1, 2020, as provided. In addition, the bill would require the department's Office of State Audits and Evaluations to conduct a review of the program to determine its effectiveness in providing services to offenders released from state prison or county jail. The bill would authorize the department to use up to \$500,000 of the amount appropriated in any budget act or other measure for the program for this review.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act exempts from its provisions actions by the department to adopt and update, as necessary, instructions to any state or local agency for the preparation, development, or administration of the state budget.

This bill would provide that any action by the department to adopt and update instructions to any state or local agency for the purpose of carrying out the Community-Based Transitional Housing Program constitutes a department action to adopt and update instructions for the preparation, development, or administration of the state budget and is exempt from the Administrative Procedure Act.

(17) Existing law establishes within the Department of Housing and Community Development the California Housing Finance Agency and

provides that the primary purpose of the agency is to meet the housing needs of persons and families of low or moderate income. Existing law requires the California Housing Finance Agency to administer various housing finance assistance programs, including, among others, the California Homebuyer's Downpayment Assistance Program and the Homebuyer Down Payment Assistance Program of 2002.

This bill would discontinue those and other specified programs on and after July 1, 2016.

Existing law also requires the agency to administer the Roberti-Greene Home Purchase Assistance Program, which provides first-time homebuyers with home purchase assistance in the form of interest rate subsidies and downpayment assistance, among others. Existing law establishes the Home Purchase Assistance Fund in the State Treasury and continuously appropriates the fund to the agency for expenditure pursuant to the program and defraying actual administrative costs of the agency.

This bill, among other things, would modify the program to instead provide home purchase assistance to low- and moderate-income homebuyers to qualify for the purchase of owner-occupied homes and would revise the terms under which that assistance is provided. The bill would authorize the agency, pursuant to specified objectives, to create its own home purchase assistance programs, home purchase assistance products, or both, on such terms and conditions as the agency deems prudent. On and after July 1, 2016, the bill would transfer any obligated amounts from the funds for the programs discontinued by the bill, and any loan receivables, interest, or other amounts accruing to the agency pursuant to those programs, to the Home Purchase Assistance Fund. By expanding the authorized uses of continuously appropriated funds, this bill would make an appropriation.

(18) Existing law permits a person, at the time of registering to vote, to choose whether or not to disclose the name of a political party that he or she prefers on his or her affidavit of registration. When a county elections official receives an affidavit of registration that does not include a political party preference in the space provided, existing law requires the elections official to presume that the person has declined to disclose a party preference.

Existing law requires the Secretary of State to register a person to vote based on the person's motor vehicle records, which constitute a completed affidavit of registration, as specified. If the person does not provide a political party preference in his or her motor vehicle records, existing law requires the person's political party preference to be designated as "Unknown" and requires the person to be treated as a "No Party Preference" voter.

This bill would require a county elections official who receives an affidavit of registration that does not include a political party preference to designate the person's political party preference as "Unknown" on a voter registration index and would require the person to otherwise be treated as a "No Party Preference" voter. This bill would specify that a voter whose political party preference is designated as "Unknown" because he or she did not provide a political party preference in his or her motor voter records is required to be designated as such on a voter registration index.

Existing law provides that a political party is qualified to participate in a primary election or presidential general election if voters equal in number to at least 0.33% of the total number of voters registered on a specified day before the election have declared their preference for that political party. For purposes determining whether a political party qualified to participate in the presidential general election, existing law prohibits a person who is registered to vote by the Secretary of State through his or her motor vehicle records, and whose party preference is designated as “Unknown” because he or she did not provide a party preference, from being counted in the total number of voters registered before the election.

This bill would prohibit counting a person in the total number of voters registered before the election for purposes of determining whether a political party qualified to participate in a primary election if that person is registered by a county elections official through an affidavit of registration, or by the Secretary of State through motor vehicle records, and his or her party preference is designated as “Unknown” because he or she did not include a party preference on his or her affidavit.

By imposing additional duties on the county elections officials, this bill would impose a state-mandated local program.

(19) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(12) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and 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 public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant 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) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Cannabis Regulation shall disclose information on its licensees.

(g) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors’ State License Board.
- (k) The Bureau for Private Postsecondary Education.

(l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

(m) The Board of Registered Nursing.

(n) The Board of Behavioral Sciences.

(o) The State Athletic Commission.

(p) The Cemetery and Funeral Bureau.

(q) The State Board of Guide Dogs for the Blind.

(r) The Bureau of Security and Investigative Services.

(s) The Court Reporters Board of California.

(t) The Board of Vocational Nursing and Psychiatric Technicians.

(u) The Landscape Architects Technical Committee.

(v) The Division of Investigation.

(w) The Bureau of Automotive Repair.

(x) The Respiratory Care Board of California.

(y) The Acupuncture Board.

(z) The Board of Psychology.

(aa) The California Board of Podiatric Medicine.

(ab) The Physical Therapy Board of California.

(ac) The Arbitration Review Program.

(ad) The Physician Assistant Committee.

(ae) The Speech-Language Pathology and Audiology Board.

(af) The California Board of Occupational Therapy.

(ag) The Osteopathic Medical Board of California.

(ah) The Naturopathic Medicine Committee.

(ai) The Dental Hygiene Committee of California.

(aj) The Professional Fiduciaries Bureau.

(ak) The State Board of Chiropractic Examiners.

(al) The Bureau of Real Estate.

(am) The Bureau of Real Estate Appraisers.

(an) The Structural Pest Control Board.

(ao) The Bureau of Medical Cannabis Regulation.

(ap) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

(5) State Board of Guide Dogs for the Blind.

- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Cannabis Regulation.

(c) For purposes of paragraph (26) of subdivision (b), the term “applicant” shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 4. Section 205.1 of the Business and Professions Code is amended to read:

205.1. Notwithstanding subdivision (a) of Section 205, the Medical Cannabis Regulation and Safety Act Fund is a special fund within the Professions and Vocations Fund, and is subject to subdivision (b) of Section 205.

SEC. 5. The heading of Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code is amended to read:

CHAPTER 3.5. MEDICAL CANNABIS REGULATION AND SAFETY ACT

SEC. 6. Section 19300 of the Business and Professions Code is amended to read:

19300. This act shall be known and may be cited as the Medical Cannabis Regulation and Safety Act.

SEC. 7. Section 19300.5 of the Business and Professions Code is repealed.

SEC. 8. Section 19300.5 is added to the Business and Professions Code, to read:

19300.5. For purposes of this chapter, the following definitions shall apply:

(a) “Accrediting body” means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) “Applicant,” for purposes of Article 4 (commencing with Section 19320), includes the following:

(1) Owner or owners of the proposed premises, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the premises.

(2) If the owner is an entity, “owner” includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed premises.

(3) If the applicant is a publicly traded company, “owner” means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) “Batch” means a specific quantity of homogeneous medical cannabis or medical cannabis product and is one of the following types:

(1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.

(2) “Manufactured cannabis batch” means either:

(A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures, and is from the same harvest batch.

(B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

(d) “Bureau” means the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.

(e) “Cannabinoid” or “phytocannabinoid” means a chemical compound that is unique to and derived from cannabis.

(f) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or

the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(g) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(h) “Certificate of accreditation” means a certificate issued by an accrediting body to a testing laboratory.

(i) “Chief” means Chief of the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.

(j) “Commercial cannabis activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

(k) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis.

(l) “Cultivation site” means a location where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

(m) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) “Dispensary” means a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis and medical cannabis products as part of a retail sale.

(o) “Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) “Distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) “Distributor” means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator,

or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(r) “Dried flower” means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(s) “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) “Fund” means the Medical Cannabis Regulation and Safety Act Fund established pursuant to Section 19351.

(u) “Identification program” means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.

(v) “Labeling” means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.

(w) “Labor peace agreement” means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(x) “Licensee” means a person issued a state license under this chapter to engage in commercial cannabis activity.

(y) “Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license.

(z) “Live plants” means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(aa) “Local license, permit, or other authorization” means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(ab) “Lot” means a batch or a specifically identified portion of a batch.

(ac) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(ad) “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly

or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.

(ae) “Manufacturing site” means the premises that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(af) “Medical cannabis,” “medical cannabis product,” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, “medical cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(ag) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ah) “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ai) “Primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(aj) “State license” or “license” means a state license issued pursuant to this chapter.

(ak) “Testing laboratory” means the premises where tests are performed on medical cannabis or medical cannabis products and that holds a valid certificate of accreditation.

(al) “Topical cannabis” means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

(an) “Transporter” means a person who holds a license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between licensees that have been issued a license pursuant to this chapter.

SEC. 9. Section 19300.7 of the Business and Professions Code is amended to read:

19300.7. License classifications pursuant to this chapter are as follows:

(a) Type 1 = Cultivation; Specialty outdoor; Small.

- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.
- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing laboratory.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Producing Dispensary; No more than three retail sites.
- (p) Type 11 = Distributor.
- (q) Type 12 = Transporter.

SEC. 10. Section 19302 of the Business and Professions Code is amended to read:

19302. There is in the Department of Consumer Affairs the Bureau of Medical Cannabis Regulation, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter related to the bureau.

SEC. 11. Section 19302.1 of the Business and Professions Code is amended to read:

19302.1. (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(b) Every power granted to or duty imposed upon the Director of Consumer Affairs under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

(c) The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.

(d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, testing, distribution, and sale of medical cannabis within the state and to collect fees in connection with activities the bureau regulates. The bureau shall have

the authority to create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

(e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis and will serve as lead agency for the purpose of fulfilling the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). The Department of Food and Agriculture shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the cultivation of medical cannabis and to collect fees in connection with activities it regulates. The Department of Food and Agriculture shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.

(f) The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing of medical cannabis. The State Department of Public Health shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the manufacturing of medical cannabis and medical cannabis products and to collect fees in connection with activities it regulates. The State Department of Public Health shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.

SEC. 12. Section 19303 of the Business and Professions Code is amended to read:

19303. Protection of the public shall be the highest priority for all licensing authorities in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 13. Section 19304 of the Business and Professions Code is amended to read:

19304. (a) The licensing authorities shall make and prescribe rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable each licensing authority to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

(b) Each licensing authority may adopt emergency regulations to implement this chapter.

(1) Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted by this section. Any such readoption shall be limited to one time for each regulation.

(2) Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each 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 may be adopted.

SEC. 14. Section 19305 of the Business and Professions Code is amended to read:

19305. Notice of any action of a licensing authority required by this chapter to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

SEC. 15. Section 19306 of the Business and Professions Code is amended to read:

19306. (a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.

(b) The advisory committee members may include, but not be limited to, representatives of the medical cannabis industry, representatives of medical cannabis cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical cannabis patient advocates.

SEC. 16. Section 19307 of the Business and Professions Code is amended to read:

19307. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter. A licensing authority may work with state and local law enforcement agencies on investigations and enforcement actions pertaining to licenses.

SEC. 17. Section 19310 of the Business and Professions Code is amended to read:

19310. A licensing authority may on its own motion at any time before a penalty assessment is placed into effect and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

SEC. 18. Section 19311 of the Business and Professions Code is amended to read:

19311. Grounds for disciplinary action include, but are not limited to, the following:

(a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.

(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this chapter.

(d) Failure to comply with any state law, except as provided for in this chapter or other California law.

(e) Failure to maintain safe conditions for inspection by a licensing authority.

(f) Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 19322.

SEC. 19. Section 19312 of the Business and Professions Code is amended to read:

19312. (a) (1) Each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action.

(2) A licensing authority may revoke a license when a local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license.

(b) The disciplinary proceedings under this chapter 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 and agency head, as that term is defined in Section 11405.40 of the Government Code, of each licensing authority shall have all the powers granted therein.

(c) Each licensing authority may take disciplinary action and assess fines against its respective licensees for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.

(d) A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.

SEC. 20. Section 19313 of the Business and Professions Code is repealed.

SEC. 21. Section 19315 of the Business and Professions Code is amended to read:

19315. (a) Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) Nothing in this chapter shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the Fish and Game Code, the Water Code, the Food and Agricultural Code, or the Health and Safety Code.

SEC. 22. Section 19318 of the Business and Professions Code is repealed.

SEC. 23. Section 19320 of the Business and Professions Code, as added by Section 4 of Chapter 689 of the Statutes of 2015, is amended to read:

19320. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

SEC. 24. Section 19320 of the Business and Professions Code, as added by Section 8 of Chapter 719 of the Statutes of 2015, is repealed.

SEC. 25. Section 19321 of the Business and Professions Code is amended to read:

19321. (a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually.

Each licensing authority shall establish procedures for the renewal of a license.

(b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016.

(c) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

SEC. 26. Section 19322 of the Business and Professions Code is amended to read:

19322. (a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

(1) Electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

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

(2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, testing, transporter, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, testing, transport, or dispensing of commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, testing, transport, or dispensary activities to be conducted on the property by the tenant applicant.

(4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, “employee” does not include a supervisor.

(C) For purposes of this paragraph, “supervisor” means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(7) Provide the applicant’s valid seller’s permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller’s permit.

(8) Provide any other information required by the licensing authority.

(9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an “agricultural employer,” as defined in 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), to the extent not prohibited by law.

(10) Pay all applicable fees required for licensure by the licensing authority.

(11) Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.

(b) For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical cannabis or medical cannabis products, the application shall also include a detailed description of the applicant’s

operating procedures for all of the following, as required by the licensing authority:

- (1) Cultivation.
- (2) Extraction and infusion methods.
- (3) The transportation process.
- (4) Inventory procedures.
- (5) Quality control procedures.
- (6) Security protocols.

SEC. 27. Section 19323 of the Business and Professions Code is amended to read:

19323. (a) A licensing authority shall deny an application if the applicant or the premises for which a state license is applied does not qualify for licensure under this chapter or the rules and regulations for the state license.

(b) A licensing authority may deny an application for licensure or renewal of a state license, or issue a conditional license, if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) The applicant has failed to provide information required by the licensing authority.

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

(5) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.

(6) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) The applicant or any of its officers, directors, owners, employees, or authorized agents have failed to comply with any operating procedure required pursuant to subdivision (b) of Section 19322.

(10) Conduct that constitutes grounds for disciplinary action pursuant to this chapter.

SEC. 28. Section 19326 of the Business and Professions Code is amended to read:

19326. (a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) (1) All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.

(2) Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.

(c) (1) Upon receipt of medical cannabis or medical cannabis products from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.

(2) Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical

cannabis products to be distributed. However, a distributor responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.

(e) This chapter shall not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the Bureau of Medical Cannabis Regulation.

SEC. 29. Section 19327 of the Business and Professions Code is amended to read:

19327. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity shall be maintained for a minimum of seven years.

(c) Licensing authorities may examine the records of licensees and inspect the premises of a licensee as the licensing authority or a state or local agency deems necessary to perform its duties under this chapter. All inspections and examination of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed.

(e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.

(f) If a licensee, its agent, or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee may be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

SEC. 30. Section 19328 of the Business and Professions Code is amended to read:

19328. (a) Except as provided in paragraphs (9) and (10), a licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.

(2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.

(3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.

(4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.

(5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.

(6) Type 10A licensees may hold a Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.

(7) Type 11 licensees shall also hold a Type 12 state license, but shall not hold any other type of state license.

(8) Type 12 licensees may hold a Type 11 state license.

(9) A Type 10A licensee may hold a Type 6 or 7 state license and may also hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.

(10) All cultivators and manufacturers may hold a Type 12 transporter license. All cultivators and manufacturers who are issued Type 12 transporter licenses shall comply with the following:

(A) Cultivators shall only transport medical cannabis from a cultivation site to a manufacturer or a distributor.

(B) Manufacturers shall only transport medical cannabis and medical cannabis products as follows:

(i) Between a cultivation site and a manufacturing site.

(ii) Between a manufacturing site and a manufacturing site.

(iii) Between a manufacturing site and a distributor.

(b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.

(c) (1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:

(A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on January 1, 2016, and has continuously done so since that date.

(B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.

(C) The business is registered with the State Board of Equalization for tax purposes.

(2) A business licensed pursuant to paragraph (1) is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to January 1, 2016, and have been in full compliance with applicable local ordinances.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 31. Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code, as added by Section 1 of Chapter 688 of the Statutes of 2015, is repealed.

SEC. 32. Section 19332 of the Business and Professions Code, as added by Section 13 of Chapter 719 of the Statutes of 2015, is amended to read:

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor commercial cultivation sites.

(b) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.

(c) The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.

(d) Pursuant to Section 13149 of the Water Code, the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife and the Department of Food and Agriculture, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation of cannabis do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor

or outdoor cultivation of medical cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture may include:

(1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 4, or “nursery,” for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants, if the licensee also holds a Type 12 transporter license issued pursuant to this chapter.

SEC. 33. Section 19332.2 is added to the Business and Professions Code, to read:

19332.2. (a) An application for a license for indoor or outdoor cultivation shall identify the source of water supply.

(1) (A) If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.

(B) Paragraphs (2) and (3) shall not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.

(2) If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and maximum amount to be diverted.

(3) If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.

(b) An application for a license issued by the Department of Food and Agriculture before January 1, 2020, shall include one of the following:

(1) A copy of a registration, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.

(3) A copy of a pending application for a permit to appropriate water, filed with the State Water Resources Control before July 1, 2017.

(4) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, establishing that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.

(5) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, establishing that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017.

(c) An application for a cultivation license issued after December 31, 2019, shall include one of the following:

(1) A copy of a registration, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board, that covers the diversion.

(3) Documentation, submitted to the State Water Resources Control Board, establishing that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.

(4) Documentation, submitted to the State Water Resources Control Board, establishing that the diversion is authorized under a riparian right

and that no diversion occurred in any calendar year between January 1, 2010, and the calendar year in which the application is submitted.

(d) The Department of Food and Agriculture shall include in any license for cultivation requirements for compliance with applicable principles, guidelines, and requirements established under Section 13149 of the Water Code.

(e) The Department of Food and Agriculture shall include in any license for cultivation any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures.

(f) Every license for cultivation shall include a condition that the license shall not be effective until the licensee has complied with Section 1602 of the Fish and Game Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

(g) The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

SEC. 34. Section 19332.5 of the Business and Professions Code is amended to read:

19332.5. (a) Not later than January 1, 2020, the Department of Food and Agriculture shall make available a certified organic designation and organic certification program for medical cannabis cultivation, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(b) The Department of Food and Agriculture may establish appellations of origin for cannabis grown in California.

(c) It is unlawful for medical cannabis to be marketed, labeled, or sold as grown in a California county when the medical cannabis was not grown in that county.

(d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical cannabis products unless the product was grown in that county.

SEC. 35. Section 19334 of the Business and Professions Code is amended to read:

19334. (a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Dispensary," Type 10 license as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.

(2) "Distributor," Type 11 license for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A distributor licensee shall hold a Type 12 or transporter license. Each location where product is stored for the purposes of distribution must be individually

licensed. A distributor licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, premises licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A distributor shall be bonded and insured at a minimum level established by the licensing authority.

(3) “Producing dispensary,” Type 10A for dispensers who have no more than three licensed dispensary facilities and wish to hold either a cultivation or manufacturing license or both. This license shall allow for delivery where expressly authorized by local ordinance. Each dispensary must be individually licensed.

(4) “Transport,” Type 12 license for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.

(b) The bureau shall establish minimum security requirements for the commercial transportation, storage, and delivery of medical cannabis and medical cannabis products.

(c) The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.

(d) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized dispensary personnel.

(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(e) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

(2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.

(4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(5) Any other breach of security.

SEC. 36. Section 19335 of the Business and Professions Code is amended to read:

19335. (a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.

(2) The transaction date.

(3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.

(b) (1) The Department of Food and Agriculture, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

(A) The quantity, or weight, and variety of products shipped.

(B) The estimated times of departure and arrival.

(C) The quantity, or weight, and variety of products received.

(D) The actual time of departure and arrival.

(E) A categorization of the product.

(F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, transporters, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

(B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

(4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of medical cannabis and medical cannabis products.

(5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.

(6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this chapter are confidential and shall not 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), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.

(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

SEC. 37. Section 19341 of the Business and Professions Code is amended to read:

19341. The State Department of Public Health shall promulgate regulations governing the licensing of manufacturers. The State Department of Public Health shall develop standards for the manufacturing and labeling of all manufactured medical cannabis products. Licenses to be issued are as follows:

(a) “Manufacturing level 1,” for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

(b) “Manufacturing level 2,” for manufacturing sites that produce medical cannabis products using volatile solvents. The State Department of Public Health shall limit the number of licenses of this type.

SEC. 38. Section 19342 of the Business and Professions Code is amended to read:

19342. (a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements established by the International Organization for Standardization, specifically ISO/IEC 17025, to test medical cannabis and medical cannabis products. The testing laboratory shall be accredited by a body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(b) An agent of a testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.

(c) A testing laboratory shall analyze samples according to both of the following:

(1) In the final form that the medical cannabis or medical cannabis products will be consumed or used, including moisture content and other attributes.

(2) A scientifically valid methodology, as determined by the bureau.

(d) If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(e) A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.

(f) The State Department of Public Health and the Department of Pesticide Regulation shall provide assistance to the bureau in developing regulations, as requested by the bureau.

SEC. 39. Section 19343 of the Business and Professions Code is amended to read:

19343. A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

(a) A testing laboratory shall not hold a license in another license category under this chapter and shall not own or have an ownership interest in any other entity or premises licensed under a different category pursuant to this chapter.

(b) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing laboratory shall also comply with any other requirements specified by the bureau.

(c) Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(d) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

SEC. 40. Section 19344 of the Business and Professions Code is amended to read:

19344. (a) A testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:

- (A) Tetrahydrocannabinol (THC).
- (B) Tetrahydrocannabinolic Acid (THCA).
- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) Terpenes required by the bureau in a regulation.
- (F) Cannabigerol (CBG).
- (G) Cannabinol (CBN).
- (H) Any other compounds or contaminants required by the bureau.

(2) That the presence of contaminants does not exceed the levels set by the bureau. In setting the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (b) of Section 19332, and any other relevant sources.

(A) Residual solvent or processing chemicals.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurities as identified by the bureau in regulation.

(b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the bureau.

SEC. 41. Section 19345 of the Business and Professions Code is amended to read:

19345. (a) Except as provided in this chapter, a testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensee in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from the licensed premises the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

(c) The bureau shall develop procedures related to all of the following:

(1) Ensuring that testing of medical cannabis and medical cannabis products occurs prior to delivery to dispensaries or any other business.

(2) Specifying how often licensees shall test medical cannabis and medical cannabis products.

(3) Requiring the destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by state law, unless remedial measures can bring the medical cannabis or medical cannabis products into compliance with quality assurance standards as specified by state law.

(d) Cultivators and manufacturers shall pay all costs related to and associated with the testing of medical cannabis and medical cannabis products required by this chapter.

SEC. 42. Section 19347 of the Business and Professions Code is amended to read:

19347. (a) Prior to delivery by or sale at a dispensary, medical cannabis and medical cannabis products shall be labeled and in tamper proof packaging and shall include a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking medical cannabis or medical cannabis products. Packages of medical cannabis and medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.

(2) All medical cannabis and medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Cultivation and manufacture date and source.

- (B) The statement “SCHEDULE I CONTROLLED SUBSTANCE.”
 - (C) The statement “KEEP OUT OF REACH OF CHILDREN AND ANIMALS” in bold print.
 - (D) The statement “FOR MEDICAL USE ONLY.”
 - (E) The statement “THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS.”
 - (F) The statement “THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”
 - (G) For packages containing only dried flower, the net weight of medical cannabis in the package.
 - (H) A warning if nuts or other known allergens are used in the manufacturing of the medical cannabis products.
 - (I) List of ingredients and pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC, CBD, and other cannabinoid amount in milligrams per serving, servings per package, and the THC, CBD, and other cannabinoid amount in milligrams for the package total.
 - (J) Clear indication, in bold type, that the product contains medical cannabis.
 - (K) Any other requirement set by the bureau or the State Department of Public Health.
 - (L) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.
 - (M) All manufactured and edible medical cannabis products shall be sold only in special packaging constructed to be child-resistant unless otherwise exempted by regulation.
 - (b) Only generic food names may be used to describe edible medical cannabis products.
- SEC. 43. Section 19347.1 is added to the Business and Professions Code, to read:
- 19347.1. (a) The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department where the licensee is in violation of this chapter or any regulation adopted pursuant to it.
- (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
 - (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
 - (3) In no event shall the administrative fine assessed by the State Department of Public Health exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this chapter. In assessing a fine, the licensing authority shall give due consideration to the appropriateness of the amount of the fine with respect to factors such

as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.

(6) A citation may be issued without the assessment of an administrative fine.

(7) The State Department of Public Health may limit the assessment of administrative fines to only particular violations of the chapter and establish any other requirement for implementation of the citation system by regulation.

(b) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

SEC. 44. Section 19347.2 is added to the Business and Professions Code, to read:

19347.2. The State Department of Public Health may, in addition to the administrative citation system authorized by Section 19347.1, also establish by regulation a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the State Department of Public Health as pertains to this chapter. The administrative citation system authorized by this section shall meet the requirements of Section 19347.1 and shall not be applied to an unlicensed person who is otherwise exempt from the licensing provisions of this chapter. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the State Department of Public Health.

SEC. 45. Section 19347.3 is added to the Business and Professions Code, to read:

19347.3. In determining whether to exercise its discretion when enforcing this chapter, the State Department of Public Health may consider whether the public interest will be adequately served in the circumstances by a suitable written notice or warning. The State Department of Public Health

may also require licensees to provide it with a written plan of correction and correct a violation within a timeframe the State Department of Public Health deems necessary under the circumstances.

SEC. 46. Section 19347.4 is added to the Business and Professions Code, to read:

19347.4. The State Department of Public Health may notify the public regarding any medical cannabis product when the State Department of Public Health deems it necessary for the protection of the health and safety of the consumer or for his or her protection from fraud.

SEC. 47. Section 19347.5 is added to the Business and Professions Code, to read:

19347.5. (a) A medical cannabis product is misbranded if it is any of the following:

(1) Manufactured, packed, or held in this state in a manufacturing site not duly licensed as provided in this chapter.

(2) Its labeling is false or misleading in any particular.

(3) Its labeling or packaging does not conform to the requirements of Section 19347 or any other labeling or packaging requirement established pursuant to this chapter.

(b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is misbranded.

(c) It is unlawful for any person to misbrand a medical cannabis product.

(d) It is unlawful for any person to receive in commerce a medical cannabis product that is misbranded or to deliver or offer for delivery any such medical cannabis product.

SEC. 48. Section 19347.6 is added to the Business and Professions Code, to read:

19347.6. (a) A medical cannabis product is adulterated if it is any of the following:

(1) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.

(2) It consists in whole or in part of any filthy, putrid, or decomposed substance.

(3) It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.

(4) It bears or contains a substance that is restricted or limited under this chapter or regulations promulgated pursuant to this chapter and the level of substance in the product exceeds the limits specified pursuant to this chapter or in regulation.

(5) Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.

(6) The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to or are not operated or administered in conformity with practices established by regulations adopted under this chapter to ensure that the medical cannabis product meets the requirements

of this chapter as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.

(7) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(8) It is an edible cannabis product and any substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.

(b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is adulterated.

(c) It is unlawful for any person to adulterate a medical cannabis product.

(d) It is unlawful for any person to receive in commerce a medical cannabis product that is adulterated or to deliver or proffer for delivery any such medical cannabis product.

SEC. 49. Section 19347.7 is added to the Business and Professions Code, to read:

19347.7. (a) When the State Department of Public Health has evidence that a medical cannabis product is adulterated or misbranded, the department shall notify the manufacturer.

(b) The State Department of Public Health may order a manufacturer to immediately cease distribution of a medical cannabis product and recall the product if the department determines both of the following:

(1) The manufacture, distribution, or sale of the medical cannabis product creates or poses an immediate and serious threat to human life or health.

(2) Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.

(c) The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.

(d) The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of medical cannabis products, as well as the power to hold those products in place.

(e) If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Medical Cannabis Regulation and Safety Act Fund, and will be available for use by the department upon appropriation by the Legislature.

(f) It is unlawful for any person to move or allow to be moved a medical cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

SEC. 50. Section 19347.8 is added to the Business and Professions Code, to read:

19347.8. (a) Whenever the State Department of Public Health finds or has probable cause to believe that any medical cannabis product is adulterated or misbranded within the meaning of this chapter or the sale of the medical cannabis product would be in violation of this chapter, the department shall affix to the medical cannabis product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the medical cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of which would be in violation of this chapter and has been embargoed and that no person shall remove or dispose of the medical cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

(b) It is unlawful for any person to remove, sell, or dispose of a detained or embargoed medical cannabis product without written permission of the State Department of Public Health or a court. A violation of this subdivision is subject to a fine of not more than ten thousand dollars (\$10,000).

(c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the medical cannabis product and all of the provisions of this chapter can be complied with, the claimant or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

(d) When the State Department of Public Health finds that a medical cannabis product that is embargoed is not adulterated, misbranded, or whose sale is not otherwise in violation of this chapter, the State Department of Public Health may remove the tag or other marking.

(e) The medical cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The medical cannabis product shall be destroyed at the expense of the claimant or owner.

(f) A proceeding for condemnation of any medical cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 19308.

(g) Upon a finding by the administrative law judge that the medical cannabis product is adulterated, misbranded, or whose sale is otherwise in violation of this chapter, the administrative law judge may direct the medical cannabis product to be destroyed at the expense of the claimant or owner. The administrative law judge may also direct a claimant or owner of the affected medical cannabis product to pay fees and reasonable costs, including

the costs of storage and testing, incurred by the bureau or the Department of Public Health in investigating and prosecuting the action taken pursuant to this section.

(h) When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the medical cannabis and medical cannabis product and when all provisions of this chapter have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking and the medical cannabis shall no longer be held for sale in violation of this chapter.

(i) The State Department of Public Health may condemn any medical cannabis product under provisions of this chapter. The medical cannabis product shall be destroyed at the expense of the claimant or owner.

SEC. 51. Section 19350 of the Business and Professions Code is amended to read:

19350. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business. License fees shall cover the costs of administering the track and trace program managed by the Department of Food and Agriculture, as identified in Article 7.5 (commencing with Section 19335).

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Medical Cannabis Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

SEC. 52. Section 19351 of the Business and Professions Code is amended to read:

19351. (a) The Medical Cannabis Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(2) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.

(3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Cannabis Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).

(c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Cannabis Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).

(d) (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

SEC. 53. Section 19360 of the Business and Professions Code is amended to read:

19360. (a) A person engaging in commercial cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of medical cannabis associated with his or her violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19351.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the Medical Cannabis Fines and Penalties Account. 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. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

SEC. 54. Section 2154 of the Elections Code is amended to read:

2154. In the event that the county elections official receives an affidavit of registration, executed under penalty of perjury, that does not include portions of the information for which space is provided, the county elections official shall apply the following rebuttable presumptions:

(a) If no middle name or initial is shown, it shall be presumed that none exists.

(b) If no party preference is shown, it shall be presumed that the affiant has declined to disclose a party preference. The county elections official shall designate the affiant's party preference as "Unknown" on a voter registration index under Article 5 (commencing with Section 2180) and the affiant shall otherwise be treated as a "No Party Preference" voter.

(c) If no execution date is shown, it shall be presumed that the affidavit was executed on or before the 15th day prior to the election, provided that (1) the affidavit is received by the county elections official on or before the 15th day before the election, or (2) the affidavit is postmarked on or before the 15th day before the election and received by mail by the county elections official.

(d) If the affiant fails to identify his or her state of birth within the United States, it shall be presumed that the affiant was born in a state or territory of the United States if the birthplace of the affiant is shown as "United States," "U.S.A.," or other recognizable term designating the United States. The affiant's failure to furnish his or her place of birth shall not preclude his or her affidavit of registration from being deemed complete.

SEC. 55. Section 2265 of the Elections Code is amended to read:

2265. (a) The records of a person designated in paragraph (1) of subdivision (b) of Section 2263 shall constitute a completed affidavit of registration and the Secretary of State shall register the person to vote, unless any of the following conditions is satisfied:

(1) The person's records, as described in Section 2263, reflect that he or she affirmatively declined to become registered to vote during a transaction with the Department of Motor Vehicles.

(2) The person's records, as described in Section 2263, do not reflect that he or she has attested to meeting all voter eligibility requirements specified in Section 2101.

(3) The Secretary of State determines that the person is ineligible to vote.

(b) If a person who is registered to vote pursuant to this chapter does not provide a party preference, his or her party preference shall be designated as "Unknown" on a voter registration index under Article 5 (commencing with Section 2180) of Chapter 2, and he or she shall otherwise be treated as a "No Party Preference" voter.

SEC. 56. Section 5100 of the Elections Code is amended to read:

5100. A party is qualified to participate in a primary election under any of the following conditions:

(a) (1) At the last preceding gubernatorial primary election, the sum of the votes cast for all of the candidates for an office voted on throughout the state who disclosed a preference for that party on the ballot was at least 2 percent of the entire vote of the state for that office.

(2) Notwithstanding paragraph (1), a party may inform the Secretary of State that it declines to have the votes cast for a candidate who has disclosed that party as his or her party preference on the ballot counted toward the 2-percent qualification threshold. If the party wishes to have votes for a candidate not counted in support of its qualification under paragraph (1), the party shall notify the secretary in writing of that candidate's name by the seventh day before the gubernatorial primary election.

(b) (1) On or before the 135th day before a primary election, it appears to the Secretary of State, as a result of examining and totaling the statement of voters and their declared political preference transmitted to him or her by the county elections officials, that voters equal in number to at least 0.33 percent of the total number of voters registered on the 154th day before the primary election have declared their preference for that party.

(2) A person whose party preference is designated as "Unknown" pursuant to Section 2154 or 2265 shall not be counted for purposes of determining the total number of voters registered on the specified day preceding the election under paragraph (1).

(c) On or before the 135th day before a primary election, there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that primary election. This petition shall be circulated, signed, and verified, and the signatures of the voters on it shall be certified to and transmitted to the Secretary of State by the county elections officials substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point boldface type, which

caption shall be the name of the proposed party followed by the words “Petition to participate in the primary election.”

SEC. 57. Section 5151 of the Elections Code is amended to read:

5151. A party is qualified to participate in a presidential general election under any of the following conditions:

(a) The party qualified to participate and participated in the presidential primary election preceding the presidential general election pursuant to Section 5100.

(b) (1) At the last preceding gubernatorial primary election, the sum of the votes cast for all of the candidates for an office voted on throughout the state who disclosed a preference for that party on the ballot was at least 2 percent of the entire vote of the state for that office.

(2) Notwithstanding paragraph (1), a party may inform the Secretary of State that it declines to have the votes cast for a candidate who has disclosed that party as his or her party preference on the ballot counted toward the 2-percent qualification threshold. If the party wishes to have votes for a candidate not counted in support of its qualification under paragraph (1), the party shall notify the secretary in writing of that candidate’s name by the seventh day before the gubernatorial primary election.

(c) (1) If on or before the 102nd day before a presidential general election, it appears to the Secretary of State, as a result of examining and totaling the statement of voters and their declared political preference transmitted to him or her by the county elections officials, that voters equal in number to at least 0.33 percent of the total number of voters registered on the 123rd day before the presidential general election have declared their preference for that party.

(2) A person whose party preference is designated as “Unknown” pursuant to Section 2154 or 2265 shall not be counted for purposes of determining the total number of voters registered on the specified day preceding the election under paragraph (1).

(d) On or before the 135th day before a presidential general election, there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that presidential general election. This petition shall be circulated, signed, and verified, and the signatures of the voters on it shall be certified to and transmitted to the Secretary of State by the county elections officials substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point boldface type, which caption shall be the name of the proposed party followed by the words “Petition to participate in the presidential general election.”

SEC. 58. Section 1602 of the Fish and Game Code is amended to read:

1602. (a) An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste,

or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

(A) A detailed description of the project's location and a map.

(B) The name, if any, of the river, stream, or lake affected.

(C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

(D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(E) A copy of any other applicable local, state, or federal permit or agreement already issued.

(F) Any other information required by the department.

(2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(3) The entity pays the applicable fees, pursuant to Section 1609.

(4) One of the following occurs:

(A) (i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

(B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

(C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

(D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b) (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal

facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

(A) The work described in the agreement has substantially changed.

(B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

(2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(c) (1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:

(A) The entity submits all of the following to the department:

(i) The written notification described in paragraph (1) of subdivision (a).

(ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code.

(iii) The fee specified in paragraph (3) of subdivision (a).

(B) The department determines in its sole discretion that compliance with the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.

(C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

(2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

(3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in subdivision (d), (e), or (f) of Section 19332.2 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

(d) It is unlawful for any person to violate this chapter.

SEC. 59. Section 1617 is added to the Fish and Game Code, to read:

1617. (a) The department may adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a

geographic area for a category or categories of activities related to cannabis cultivation.

(b) A general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.

(c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.

(d) The department general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.

(e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.

(f) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 60. Section 12025.2 of the Fish and Game Code is amended to read:

12025.2. The director or his or her designee may issue a complaint to any person or entity in accordance with Section 1055 of the Water Code alleging a violation for which liability may be imposed under Section 1052 or 1847 of the Water Code that harms fish and wildlife resources. The complaint is subject to the substantive and procedural requirements set forth in Section 1055 of the Water Code, and the department shall be designated a party to any proceeding before the State Water Resources Control Board regarding a complaint filed pursuant to this section.

SEC. 61. Section 12029 of the Fish and Game Code is amended to read:

12029. (a) The Legislature finds and declares all of the following:

(1) The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(2) The remediation of existing cannabis cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for cannabis cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

(b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with cannabis cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

(c) The department, in coordination with the State Water Resources Control Board and the Department of Food and Agriculture, shall establish a permanent multiagency task force to address the environmental impacts

of cannabis cultivation. The multiagency task force, to the extent feasible and subject to available resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on fish and wildlife and their habitats throughout the state.

(d) In order to facilitate the remediation and permitting of cannabis cultivation sites, the department may adopt regulations to enhance the fees on any entity subject to Section 1602 for cannabis cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

SEC. 62. Section 37104 is added to the Food and Agricultural Code, to read:

37104. Notwithstanding Section 19300.5 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medical cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division.

SEC. 63. Section 52452 of the Food and Agricultural Code is amended to read:

52452. (a) Except as otherwise provided in Section 52454, each container of agricultural seed that is for sale or sold within this state for sowing purposes shall bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag in the English language that includes all of the following information:

(1) The commonly accepted name of the kind, kind and variety, or kind and type of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each. If the aggregate of agricultural seed components, each present in an amount not exceeding 5 percent of the whole, exceeds 10 percent of the whole, each component in excess of 1 percent of the whole shall be named together with the percentage by weight of each. If more than one component is required to be named, the names of all components shall be shown in letters of the same type and size.

(2) The lot number or other lot identification.

(3) The percentage by weight of all weed seeds.

(4) The name and approximate number of each kind of restricted noxious weed seed per pound.

(5) The percentage by weight of any agricultural seed except that which is required to be named on the label.

(6) The percentage by weight of inert matter. If a percentage by weight is required to be shown by any provision of this section, that percentage shall be exclusive of any substance that is added to the seed as a coating and shown on the label as such.

(7) For each agricultural seed in excess of 5 percent of the whole, stated in accordance with paragraph (1), the percentage of germination exclusive of hard seed, the percentage of hard seed, if present, and the calendar month and year the test was completed to determine the percentages. Following the statement of those percentages, the additional statement “total germination and hard seed” may be stated.

(8) The name and address of the person who labeled the seed or of the person who sells the seed within this state.

(b) Subdivision (a) does not apply in the following instances:

(1) The sale is an occasional sale of seed grain by the producer of the seed grain to his or her neighbor for use by the purchaser within the county of production.

(2) Any cannabis seed, as defined in subdivision (f) of Section 19300.5 of the Business and Professions Code, sold or offered for sale in the state.

(c) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter.

(d) For purposes of this section, “neighbor” means a person who lives in close proximity, not to exceed three miles, to another.

SEC. 64. Section 15283 is added to the Government Code, immediately following Section 15282, to read:

15283. (a) For purposes of this section, “fund” means the Public Safety Communications Revolving Fund.

(b) The Public Safety Communications Revolving Fund is hereby created within the State Treasury. The fund shall be administered by the director and shall be used, upon appropriation by the Legislature, to pay all costs to the office resulting from this chapter or from rendering services to the state or other public agencies, which costs include, but are not limited to, costs of employing and compensating necessary personnel, expenses such as operating or other expenses of the division, and costs associated with approved public safety communications projects, and to establish reserves. The director, at his or her discretion, may establish segregated, dedicated accounts within the fund.

(c) The fund shall consist of all of the following:

(1) Revenues from the provision or sale of public safety communications services provided for in this chapter or of other services rendered by the division.

(2) Moneys appropriated and made available by the Legislature for the purposes of this chapter.

(3) Any other moneys properly credited or made available to the division from any other source, including, but not limited to, the return from investments of moneys by the Treasurer.

(d) Pursuant to Section 11255, the Controller shall, at the request of the division and consistent with the annual budget of each state department, transfer to the fund any payment authorized to be collected by the division from public agencies for the division’s services. The division shall notify each affected state agency upon requesting the Controller to make any transfer pursuant to this subdivision.

(e) If the balance remaining in the fund at the end of any fiscal year exceeds 25 percent of the portion of the division’s budget for that fiscal year that is used for supporting public safety communications and other client services, the excess amount shall be used to reduce the billing rates for services rendered by the office during the following fiscal year.

(f) This section shall become operative on July 1, 2016.

SEC. 65. Chapter 6.45 (commencing with Section 30035) is added to Division 3 of Title 3 of the Government Code, immediately preceding Chapter 7, to read:

CHAPTER 6.45. COMMUNITY-BASED TRANSITIONAL HOUSING PROGRAM

30035. The Legislature finds and declares all of the following:

(a) Upon release from custody, offenders who are incarcerated for felony or misdemeanor convictions generally return to their communities of last residence.

(b) Providing released offenders with transitional housing services in tandem with support services that include, but are not limited to, employment counseling, job training, continuing education, psychological counseling, and substance abuse treatment may help these individuals transition into productive roles in their communities and reduce the fiscal and operational strain of recidivism on state and local law enforcement agencies and the courts.

(c) Research has found that transitional housing, and related support services, can be effective when provided to ex-offenders in community-based settings that reflect the environments in which they will permanently reside.

(d) For a variety of reasons, local agencies charged with land use decisions may be reluctant to approve facilities that provide released offenders with community-based services similar to those described in subdivision (b).

(e) It is in the state's interest to increase the supply of transitional housing for ex-offenders. The provision of state grants to cities, counties, and cities and counties that agree to approve facilities that provide released offenders with community-based services can provide incentives to increase the number of those facilities, while also providing additional resources to those communities.

30035.1. (a) There is hereby established the Community-Based Transitional Housing Program, to be administered by the Department of Finance. As used in this chapter, "program" means the Community-Based Transitional Housing Program and "department" means the Department of Finance.

(b) Eligibility to apply to participate in the program shall be limited to cities, counties, and cities and counties.

(c) The program shall be funded with moneys appropriated for that purpose in the annual Budget Act or other measure. Notwithstanding any other law, the encumbrance period for moneys appropriated in a budget act or other measure for the program shall be three fiscal years.

30035.2. In order for a city, county, or city and county to receive funds pursuant to the program, the facility for which it has approved a conditional use permit or other local entitlement pursuant to paragraph (2) of subdivision (a) of Section 30035.3 shall meet all of the following criteria:

(a) The facility shall provide transitional housing for a period of not less than 10 years to persons who have been released from a state prison or county jail after serving a sentence for one or more felony or misdemeanor convictions.

(b) The facility shall provide, or contract with another provider for, two or more additional services to residents. These services may include, but need not necessarily be limited to, life skills training, employment counseling, vocational training, continuing education, psychological counseling, anger management training, substance abuse treatment and counseling, or cognitive behavioral therapy.

(c) The facility operator, and any entity with which it contracts for the provisions of services described in subdivision (b), shall be in valid possession of all licenses required by state law and local rules, regulations, or ordinances.

30035.3. (a) (1) Applications for program funding shall be submitted to the department, in the form and manner specified by the department, no earlier than October 1, 2016, and no later than October 1, 2018.

(2) (A) Each application shall be accompanied by a copy of a resolution adopted by the county board of supervisors or the city council, as applicable, stating that the board or council has approved the issuance of a conditional use permit or other local entitlement for a facility that meets the criteria specified in Section 30035.2 and that final issuance of the conditional use permit or provision of other local entitlement will be provided within the three scheduled public meetings of the county board of supervisors or city council, as applicable, following the department's approval of the city's, county's, or city and county's application for program funds.

(B) The conditional use permit or other local entitlement issued pursuant to this paragraph shall be valid for a minimum period of 10 years from the date of issuance.

(C) Failure of the city, county, or city and county to provide final issuance of the conditional use permit or other local entitlement within the three scheduled public meetings following the department's approval of the city's, county's, or city and county's application shall render the department's approval of that application void. The city, county, or city and county shall thereafter be permanently ineligible to submit any future application for funding under the program.

(b) Each application for program funding shall detail all of the following:

(1) The amount of program funding requested.

(2) The number of offenders for whom the facility will provide services.

(3) The types of offenders for whom the facility will provide services.

(4) The types of services that the facility will provide to offenders.

(5) The purposes for which the city, county, or city and county will use the program funds for which it has applied.

(6) The purposes for which the facility will use program funds provided to it by the applicant city, county, or city and county.

(7) (A) The facility operator's past in-state experience with operating facilities similar to those for which the application has been submitted.

(B) The information required by this paragraph shall include detailed information describing each instance in which the facility operator was found to be in violation of any state law or local rule, regulation, or ordinance, including any applicable state or local licensing requirements.

(8) The facility operator's program performance measurement in reducing recidivism and assisting ex-offenders in transitioning back into society.

(9) (A) A list of all permitted facilities within the applicant city's, county's, or city and county's jurisdiction that, in a residential setting, provide transitional housing services, psychological counseling, or cognitive behavioral therapy.

(B) The number of persons residing in each facility described in subparagraph (A) and the types of services provided to those residents.

(C) The number of persons residing in each facility described in subparagraph (A) who are on probation or parole.

(10) An agreement, as a condition of receiving program funds, that the applicant city, county, or city and county will allow the conditional use permit or other local entitlement to remain valid throughout the 10-year period for which the conditional use permit or other local entitlement required pursuant to paragraph (2) of subdivision (a) is valid.

(11) Two contact persons at the applicant city, county, or city and county and two contact persons at the facility provider who will be tasked with responding to questions regarding the facility if the application for program funding is approved. The applicant city, county, or city and county shall promptly notify the department of any changes made to the contact information required by this paragraph.

30035.4. (a) The department shall approve or deny each application received pursuant to Section 30035.3 within 90 days of receipt and, if the application is approved, shall determine the amount of funding to be provided to each applicant city, county, or city and county, subject to subdivision (a) of Section 30035.5. The department's decision to approve or deny an application and the determination of the amount of funding to be provided shall be final.

(b) The criteria specified in paragraphs (1) through (9), inclusive, of subdivision (b) of Section 30035.3 shall be the primary basis upon which the department determines whether to approve or deny an application and the amount of funds to award to an applicant city, county, or city and county. The department may consider any other criteria it deems appropriate, provided that any additional criteria are germane to making an award decision and further the purposes of the program.

(c) The department shall encourage applicant cities, counties, and cities and counties to match the requested program funds, to the greatest extent possible, using local funds. In the event that the department determines that, based on the criteria specified in subdivision (b), two or more applications are equal in merit, the department shall give priority to those applicant cities, counties, or cities and counties that agree to provide the largest amount of local matching funds proportionate to the amount of program funds for which they have applied.

(d) If the department approves an application and receives subsequent notification that the applicant city, county, or city and county has provided final issuance of a conditional use permit or other local entitlement as required by paragraph (2) of subdivision (a) of Section 30035.3, the Director of Finance, or his or her designee, shall direct the State Controller to remit to the applicant city, county, or city and county the amount of program funding approved by the department from those funds designated for that purpose in any budget act or other measure.

30035.5. (a) The department shall award to a city, county, or city and county, the application of which the department has approved pursuant to Section 30035.4, up to two million dollars (\$2,000,000). An applicant city, county, or city and county shall specify in its application the amount for which they are applying, as required by paragraph (1) of subdivision (b) of Section 30035.3.

(b) Of the funds provided to an applicant pursuant to this section, 60 percent shall be retained by the city, county, or city and county that provided the conditional use permit or other local entitlement for the facility and 40 percent shall be provided by the city, county, or city and county to the facility operator.

(1) A city, county, or city and county may use program funds, and any matching funds provided pursuant to subdivision (c) of Section 30035.4, for the following purposes:

(A) Discretionary law enforcement services, including efforts to enhance public safety in the vicinity of the facility for which program funding is provided.

(B) Community outreach efforts that seek to address the concerns of residents and property owners within the one-quarter mile radius of the facility for which program funding is provided.

(C) Any other community-based activities that the board of supervisors or city council, as applicable, believes will contribute to improved community relations regarding the facility for which program funding is provided.

(2) Facility operators may use program funds provided by the applicant city, county, or city and county for the following purposes:

(A) Providing facility residents with the services specified in the approved application for program funding.

(B) Enhancing the security of the facility and its premises.

(C) Community outreach and communications.

(D) Start-up costs for the operation of the facility.

(3) While the program is intended to primarily target offenders released from state prison or county jail, nothing in this chapter shall be construed as prohibiting the program from serving other individuals in the community who may benefit from the program's services.

(c) No later than August 1, 2017, and each subsequent August 1 for which the program is in effect, each participating city, county, or city and county shall report the following to the department in the form and manner specified by the department:

(1) Program funds and matching funds received by the participating city, county, or city and county.

(2) A description of the use of the program funds and matching funds.

(3) A list of permitted facilities within the city's, county's, or city and county's jurisdiction.

(d) No later than August 1, 2017, and each subsequent August 1 for which the program is in effect, each facility operator receiving program funds from a participating city, county, or city and county shall report the following to the department in the form and manner specified by the department:

(1) Program funds and matching funds received by the facility operator.

(2) The number of ex-offenders currently receiving program services.

(3) A description of the services provided.

(4) The number of ex-offenders who, over the course of the year preceding the report, received treatment and transitioned back into society.

(5) The facility operator's program performance measurement of recidivism reduction.

30035.6. (a) No later than November 1, 2017, and each subsequent November 1 until November 1, 2020, the department shall submit a report to the Joint Legislative Budget Committee detailing all of the following for the preceding fiscal year:

(1) The number of applications for program funding received by the department.

(2) The number of applications for program funding approved and denied by the department.

(3) The name of each city, county, or city and county receiving program funds and the number of ex-offenders for which each recipient city, county, or city and county has received program funds.

(4) The name of each city, county, or city and county whose application for program funding was denied and the number of ex-offenders for which each denied application requested program funding.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795.

30035.7. (a) Of the amount appropriated in the annual Budget Act or other measure for the program, the department's Office of State Audits and Evaluations may use up to five hundred thousand dollars (\$500,000) to conduct a review of the program to determine its effectiveness in providing services to offenders released from state prison or county jail.

(b) The department's Office of State Audits and Evaluations shall initiate its review of the program on July 1, 2018. The department shall provide a copy of the review to the Joint Legislative Budget Committee no later than May 1, 2019. The copy of the review shall be submitted in compliance with Section 9795.

(c) Cities, counties, cities and counties, and facility operators that receive program funds shall agree, as a condition of receiving program funds, to cooperate fully with the review conducted pursuant to this section by the department's Office of State Audits and Evaluations.

30035.8. Any action by the department to adopt and update instructions to any state or local agency for the purpose of carrying out the department's obligations pursuant to this chapter constitutes a department action to adopt and update instructions for the preparation, development, or administration of the state budget pursuant to Section 11357 and is exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

SEC. 66. Section 11362.769 of the Health and Safety Code is amended to read:

11362.769. Indoor and outdoor medical cannabis cultivation shall be conducted in accordance with state and local laws. State agencies, including, but not limited to, the Department of Food and Agriculture, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical cannabis cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 67. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Subject to subdivision (b), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) This section shall remain in effect only until one year after the Bureau of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code).

(c) This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (b).

SEC. 68. Section 11362.777 of the Health and Safety Code is amended to read:

11362.777. (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary and, except as specified in subdivision (c), shall administer this section as it pertains to the commercial cultivation of medical cannabis. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, medical cannabis is an agricultural product.

(b) (1) A person or entity shall not cultivate medical cannabis without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(3) A person or entity shall not submit an application for a state license pursuant to this section if the proposed cultivation of cannabis will violate the provisions of any local ordinance or regulation, or if medical cannabis is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c) (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical cannabis pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability before issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical cannabis cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical cannabis before obtaining both a permit from the city, county, or city and county and a state medical cannabis cultivation license from the department.

(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.

(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.

(d) (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.

(2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical cannabis. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e) (1) The department, in consultation with, but not limited to, the Bureau of Medical Cannabis Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical cannabis. In implementing the program, the department shall consider issues, including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure compliance with Section 19332.2 of the Business and Professions Code.

(2) The department shall establish a program for the identification of permitted medical cannabis plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical cannabis plant.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 19335 of the Business and Professions Code.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical cannabis plant.

(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(f) (1) A city, county, or city and county that issues or denies licenses, permits, or other entitlements to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.

(2) Unique identifiers and associated identifying information administered by a city, county, or city and county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. This section does not apply to a primary caregiver cultivating cannabis pursuant to Section 11362.5 if the

area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution.

SEC. 69. Section 44559.11 of the Health and Safety Code is amended to read:

44559.11. (a) It is the intent of the Legislature to ensure that the state, through the authority, may make maximum, efficient use of capital access programs enacted by all federal and state agencies, as well as funding available from any governmental program whose goals may be advanced by providing funding to the Capital Access Loan Program.

(b) In furtherance of this intent, and notwithstanding any other provision of this article, when the contributions required pursuant to Section 44559.4 are entirely funded by a public or quasi-public entity other than the authority's fee revenue under Sections 44525 and 44548, the authority may, by regulation adopted pursuant to subdivision (b) of Section 44520 or subdivision (e) of Section 44559.14, establish alternate provisions as necessary to enable the authority to participate in the alternative funding source program, including implementing loan loss reserve programs to benefit any individual person engaged in qualifying activities in furtherance of the public or quasi-public entity's policy objectives in the state that require financing.

SEC. 70. Section 44559.14 is added to the Health and Safety Code, to read:

44559.14. (a) (1) It is the intent of the Legislature in enacting the act adding this section to create and fund a program to assist residential property owners and small business owners in seismically retrofitting residences and small businesses with a priority on soft-story buildings and unreinforced brick and concrete buildings. It is not the intent of the Legislature to assist the physical expansion of small businesses and residences.

(2) The Legislature hereby establishes the California Seismic Safety Capital Access Loan Program. The program shall cover losses on qualified loans by participating lenders to qualified residential property owners or qualified small businesses for eligible projects, as specified under this section. The program shall be administered by the California Pollution Control Financing Authority and follow the terms and conditions for the Capital Access Loan Program in this article with the additional program requirements specified under this section.

(b) For purposes of this section, unless the context requires otherwise, the following words and terms shall have the following meanings:

(1) “Seismic retrofit construction” means alteration performed on or after January 1, 2017, of a qualified building or its components to substantially mitigate seismic damage. “Seismic retrofit construction” includes, but is not limited to, all of the following:

- (A) Anchoring the structure to the foundation.
- (B) Bracing cripple walls.
- (C) Bracing hot water heaters.
- (D) Installing automatic gas shutoff valves.
- (E) Repairing or reinforcing the foundation to improve the integrity of the foundation against seismic damage.
- (F) Anchoring fuel storage.
- (G) Installing an earthquake-resistant bracing system for mobilehomes that are registered with the Department of Housing and Community Development.

(2) “Eligible costs” means the costs paid or incurred on or after January 1, 2017, for an eligible project, including any engineering or architectural design work necessary to permit or complete the eligible project less the amount of any grant provided by a public entity for the eligible project. “Eligible costs” do not include costs paid or incurred for any of the following:

(A) Maintenance, including abatement of deferred or inadequate maintenance, and correction of violations unrelated to the seismic retrofit construction.

(B) Repair, including repair of earthquake damage.

(C) Seismic retrofit construction required by local building codes as a result of addition, repair, building relocation, or change of use or occupancy.

(D) Other work or improvement required by local building or planning codes as a result of the intended seismic retrofit construction.

(E) Rent reductions or other associated compensation, compliance actions, or other related coordination involving the qualified residential property owner or qualified small business and any other party, including a tenant, insurer, or lender.

(F) Replacement of existing building components, including equipment, except as needed to complete the seismic retrofit construction.

(G) Bracing or securing nonpermanent building contents.

(H) The offset of costs, reimbursements, or other costs transferred from the qualified residential property owner or qualified small business to others.

(3) “Eligible project” means seismic retrofit construction that is necessary to ensure that the qualified building is capable of substantially mitigating seismic damage, and the financing necessary to pay eligible costs of the project.

(4) “Qualified building” means a building that is certified by the appropriate local building code enforcement authority for the jurisdiction in which the building is located as hazardous and in danger of collapse in the event of a catastrophic earthquake.

(5) “Qualified loan” means a loan or portion of a loan as defined in subdivision (j) of Section 44559.1, where the proceeds of the loan or portion

of the loan are limited to the eligible costs for an eligible project under this program, and where the loan or portion of the loan does not exceed two hundred fifty thousand dollars (\$250,000).

(6) “Qualified small business” means a business referred to in subdivisions (i) and (m) of Section 44559.1 that owns and occupies, or intends to occupy, a qualified building for the operation of the business.

(7) “Qualified residential property owner” means either an owner and occupant of a residential building that is a qualified building or a qualified small business that owns one or more residential buildings, including a multiunit housing building, that is a qualified building.

(c) (1) The California Seismic Safety Capital Access Loan Program Fund is established in the State Treasury and shall be administered by the authority pursuant to Sections 44548 and 44549 for this program. For purposes of this section, the references in Sections 44548 and 44549 to “small business” shall include “qualified residential property owner,” as defined in this section. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the authority for carrying out this section. The authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this section from any source shall be deposited into the fund.

(2) All moneys in the fund derived from any source shall be held in trust for the life of this program, for program expenditures and costs of administering this section, as follows:

(A) Program expenditures shall include both of the following:

(i) Contributions paid by the authority in support of qualified loans.

(ii) Costs for a qualified expert to validate that the proceeds of the loans are eligible costs, as defined under this section.

(iii) Reasonable costs to educate the small business community, residential property owners, and participating lenders about the program, including travel within the state.

(B) Administrative expenditures shall be limited to 5 percent of the initial appropriation plus 5 percent of all moneys recaptured, and shall include all of the following:

(i) Personnel costs.

(ii) Service and vending contracts, other than program expenditures described in subparagraph (A), that are necessary to carry out the program.

(iii) Other reasonable direct and indirect administrative costs.

(3) The authority may direct the Treasurer to invest moneys in the fund that are not required for its current needs in the eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices located in the state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from an investment or deposit shall be

deposited into the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(d) The authority shall adopt regulations pursuant to Section 44520 to implement the program, including, but not limited to, provisions to:

(1) Establish a new loss reserve account for each participating lender enrolling loans in this program.

(2) Obtain a certification from each participating lender and qualified small business or qualified residential property owner upon enrollment of a qualified loan that the proceeds of the loan will be used for the eligible costs of an eligible project.

(3) Contribute an additional incentive from the fund for each loan enrolled for a qualified small business or qualified residential property owner located in a severely affected community.

(4) Restrict the enrollment of a qualified loan in any other Capital Access Loan Program for a qualified small business or qualified residential property owner offered by the authority as long as funds are available for this program.

(5) Limit the term of loss coverage for each qualified loan to no more than 10 years.

(6) Recapture from the loss reserve account the authority's contribution for each enrolled loan upon the maturation of that loan or after 10 years from the date of enrollment, whichever happens first, to be deposited in the fund and applied to future program and administrative expenditures.

(e) The authority may adopt regulations relating to residential property owner or small business financing 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. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5.

SEC. 71. Section 50800.5 of the Health and Safety Code is amended to read:

50800.5. (a) There is hereby created in the State Treasury the Emergency Housing and Assistance Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department to carry out the purposes of this chapter. Any repayments, interest, or new appropriations shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Money in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

(b) All moneys in the Emergency Housing and Assistance Fund, created pursuant to Section 50800.5 as it existed prior to the effective date of the act that adds this chapter, shall be transferred, on the effective date of the act that adds this chapter, to the Emergency Housing and Assistance Fund created by subdivision (a).

(c) The department may require the transfer of moneys in the Emergency Housing and Assistance Fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest, dividends, and pecuniary gains from these investments shall accrue to the Emergency Housing and Assistance Fund, notwithstanding Section 16305.7 of the Government Code.

(d) To the extent funds are made available by the Legislature, moneys in the fund may be used for the purposes of Chapter 19 (commencing with Section 50899.1) of Part 2 of Division 31 of the Health and Safety Code.

SEC. 72. Chapter 19 (commencing with Section 50899.1) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 19. CALIFORNIA EMERGENCY SOLUTIONS GRANTS PROGRAM

50899.1. This chapter may be cited as the California Emergency Solutions Grants Program.

50899.2. The California Emergency Solutions Grants Program shall be administered by the California Department of Housing and Community Development.

50899.3. The following definitions shall apply to all activities conducted pursuant to this chapter:

(a) “Department” means the California Department of Housing and Community Development.

(b) “Homelessness” means the same as defined by the United States Department of Housing and Urban Development in the federal Emergency Solutions Grants Program at Section 576.2 of Title 24 of the Code of Federal Regulations.

(c) “Continuum of care” means the same as defined by the United States Department of Housing and Urban Development at Section 586.2 of Title 24 of the Code of Federal Regulations.

(d) “Continuum of care service area” means the entire geographic area within the boundaries of a continuum of care.

(e) “Subrecipient” means an entity that enters into a written agreement with the department to implement activities pursuant to this chapter.

(f) “California ESG Regulations” means the regulations set forth in Section 8400 and following of Title 25 of the California Code of Regulations, pertaining to the administration of the Federal Emergency Shelter Grants Program.

(g) “Federal ESG Program” means collectively the California ESG Regulations and the federal laws in connection with which the California

ESG Regulations were adopted, including Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. Secs. 11371-11378, incl.), and any amendments thereto, the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 (42 U.S.C. Secs. 11302-11304, incl. and 11360-11378, incl.), and any amendments and any implementing federal regulations thereto.

50899.4. Funding for the California Emergency Solutions Grants Program shall be made available upon appropriation to the department for the purpose of addressing the crisis of homelessness in California. In furtherance of this purpose, the department shall make grants to qualifying subrecipients throughout the state to implement activities that address the needs of homeless individuals and families and assist them to regain stability in permanent housing as quickly as possible. Funded activities may include without limitation activities eligible under the Federal ESG Program, including (a) engaging homeless individuals and families living on the street; (b) operating homeless shelters and providing essential services to shelter residents; (c) rapidly rehousing homeless individuals and families; and (d) preventing families and individuals from becoming homeless. In addition, the California Emergency Solutions Grants Program may facilitate technical assistance activities to improve the capacity of subrecipients and the continuum of care to end homelessness.

50899.5. Any moneys appropriated and made available for the purposes of this chapter, and all moneys received by the department pursuant to this chapter, shall be used for the purposes of this chapter, including the administration of the California Emergency Solutions Grants Program. The administrative expenses of the department in administering the California Emergency Solutions Grants Program shall not exceed 5 percent of the funds appropriated for the purposes of this chapter. Notwithstanding any other provision of law, the department may provide an additional amount, not to exceed 5 percent of the moneys appropriated and made available for the purposes of this chapter, for technical assistance to subrecipients and continuums of care to develop, implement, carry out, or improve implementation of activities pursuant to this chapter. Notwithstanding any other provision of law, the department may also allocate an amount, not to exceed 5 percent of the funding provided to a subrecipient, for the general administration costs of those subrecipients that are cities, counties, or other political subdivisions of the State of California, in furthering the purposes of this chapter.

50899.6. The California Emergency Solutions Grants Program generally will be administered by the department in a manner consistent with the Federal ESG Program. However, the department may administer the California Emergency Solutions Grants Program differently from the Federal ESG Program, and include such modifications as the department may determine are necessary to address the purposes of this chapter or to improve the effectiveness or efficiency of the California Emergency Solutions Grants Program, including but not limited to:

(a) The participation of all continuum of care service areas within California, using a formula distribution that reflects the entire continuum of care service area.

(b) The modification of formula factors in the Federal ESG Program for use in the California Emergency Solutions Grants Program.

50899.7. The department shall review, adopt, amend, and repeal guidelines to implement this chapter. Any guidelines adopted to implement this chapter shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. In the event of any inconsistency between such guidelines or terms and the Federal ESG Program, the guidelines shall prevail for the purposes of this chapter.

SEC. 73. Section 50912.5 is added to the Health and Safety Code, to read:

50912.5. There shall be within the agency a director of enterprise risk management and compliance appointed by the Governor and serving at the pleasure of the executive director of the agency. The director of enterprise risk management and compliance shall assist in the implementation of processes, tools, and systems to identify, assess, measure, manage, monitor, and mitigate risks related to the development of new programs or changes to existing law or regulations that may result in new or increased risk to the agency, as well as other duties as may be required by the executive director.

SEC. 74. Section 51341 of the Health and Safety Code is amended to read:

51341. The Legislature finds and declares that:

(a) There is a continuing and urgent need to provide affordable mortgage financing to meet the increasingly unfulfilled housing needs of citizens of this state.

(b) There is a need to develop financial mechanisms to make homes affordable to low- and moderate-income buyers who intend to occupy the homes as their primary residences.

(c) The high cost of housing impedes the ability of California employers to compete in the national marketplace for employees.

(d) Affordable housing enhances the quality of life for California residents and provides fuel for the state's economic engine.

(e) Housing is a critical component of the California economy, both as an income producing sector and a principal factor in economic development.

(f) California's housing crisis severely impacts families struggling to provide safe, stable homes for their children to grow and learn and the workers who are the backbone of many of the state's most important industries.

(g) The percentage of Californians able to purchase their own homes continues to decline.

(h) There is a need to streamline the agency's homeownership assistance programs to make them more efficient and effective.

(i) Therefore, this chapter is enacted to make home purchases more affordable to low- and moderate-income Californians seeking the opportunity to own and occupy their own homes.

SEC. 75. Section 51342 of the Health and Safety Code is repealed.

SEC. 76. Section 51344 of the Health and Safety Code is amended and renumbered to read:

51342. (a) There is hereby continued in the State Treasury a Home Purchase Assistance Fund. "Fund," as used in this chapter, means the Home Purchase Assistance Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the agency, without regard to fiscal years, for expenditure pursuant to this chapter and defraying administrative costs of the agency. Notwithstanding Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the fund.

(b) On and after July 1, 2016, all of the following shall apply:

(1) Any unobligated amounts remaining in any fund established for the purposes of Chapter 9 (commencing with Section 51450) or Chapter 11 (commencing with Section 51500), including, but not limited to, the California Homebuyer's Downpayment Assistance Program, the School Facility Fee Program, and the Extra Credit Teacher Program, shall be transferred to the Home Purchase Assistance Fund for expenditure by the agency for the purposes of this chapter.

(2) The agency shall have no obligation to continue administering loan programs authorized by Chapter 9 (commencing with Section 51450) or Chapter 11 (commencing with Section 51500).

(3) Notwithstanding Section 16305.7 of the Government Code, any interest earned, or other increment derived, from investments made from moneys transferred to the fund pursuant to paragraph (1), and any loan receivables, repayments made, or other sums accruing to the agency pursuant to Chapter 9 (commencing with Section 51450) or Chapter 11 (commencing with Section 51500) shall be deposited into the fund for expenditure by the agency for the purposes of this chapter.

SEC. 77. Section 51345 of the Health and Safety Code is amended and renumbered to read:

51343. (a) The agency shall administer a home purchase assistance program in accordance with this chapter. The purpose of the home purchase assistance program is to assist low- and moderate-income homebuyers to qualify for the purchase of owner-occupied homes. The agency shall make assistance to first-time homebuyers a priority use of these funds.

(b) Homeownership assistance under this chapter may be provided for any purposes authorized under Section 51402, including, but not limited to, all of the following:

(1) An interest rate subsidy to reduce the interest rate.

(2) A deferred-payment, low-interest, subordinate mortgage loan, including downpayment assistance, closing cost assistance, or both, to make financing affordable to low- and moderate-income homebuyers.

(3) Buying down the cost of mortgage insurance.

(c) The amount of home purchase assistance shall be available only in conjunction with first mortgage loan financing provided by the agency or the Department of Veterans Affairs.

(d) The term of the home purchase assistance shall not exceed the term of the primary loan.

(e) Assistance under this chapter is available only for owner-occupied residential structures.

(f) (1) The agency may, in its discretion, permit the lien of the downpayment assistance loan to be subordinated to refinancing if it determines that one of the following applies:

(A) The borrower has demonstrated hardship and subordination is required to avoid foreclosure.

(B) The borrower has acquired subordinate financing to build an accessory dwelling on the property.

(C) The borrower has acquired subordinate financing to make the property compliant with the federal Americans with Disabilities Act of 1990 (Public Law 101-336), facilitate rehabilitation needed to allow the owner to age in place, or both.

(D) The new loan meets the agency's underwriting requirements.

(2) The agency may permit subordination on those terms and conditions as it determines are reasonable.

(3) The amount of home purchase assistance shall not be due and payable upon the 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 the regulations of the United States Department of Housing and Urban Development governing FHA insured first mortgage loans.

(g) All repayments shall be deposited in the fund for ongoing use in this downpayment assistance program.

SEC. 78. Section 51347 of the Health and Safety Code is repealed.

SEC. 79. Section 51348 of the Health and Safety Code is repealed.

SEC. 80. Section 51349 of the Health and Safety Code is amended to read:

51349. (a) The agency shall have all the powers conferred upon it by this part and Part 4 (commencing with Section 51600) in administering this chapter.

(b) The authority provided by this section shall be conferred upon the Department of Veterans Affairs by any contract executed pursuant to Section 51346, with respect to the assistance being provided pursuant to the contract.

(c) Notwithstanding any other law, the agency, pursuant to the objectives specified in Section 50952, may, with its own funds or from funds derived from other sources, create its own home purchase assistance programs, home purchase assistance products, or both, on such terms and conditions as the agency deems prudent. Nothing in this chapter shall be deemed to prohibit the agency from exercising its discretion pursuant to this subdivision.

SEC. 81. Section 51455 of the Health and Safety Code is amended to read:

51455. (a) Except as provided in subdivision (b), Sections 51450, 51451, 51452, and 51454 shall not be operative on and after January 1, 2002.

(b) Except as provided in Section 51453 and 51453.5, until July 1, 2016, the School Facilities Fee Assistance Fund established by Section 51452 and the programmatic authority necessary to operate the programs authorized by Section 51451 shall continue on and after January 1, 2002, only with respect to any repayment obligation pertaining to that assistance or to any regulatory agreement imposed as a condition of that assistance.

(c) Sections 51451.5, 51453, and 51453.5 shall not be operative on and after July 1, 2016.

(d) On and after July 1, 2016, any unobligated amounts remaining in the School Facilities Fee Assistance Fund, including the repayment of disbursed moneys, or any interest earned from the investment of those moneys or any other moneys accruing to the fund from any source, shall be transferred to the Home Purchase Assistance Fund and are continuously appropriated to the agency for the purposes described in Section 51342.

SEC. 82. Section 51511 is added to the Health and Safety Code, to read:

51511. (a) This chapter, except for this section, shall not be operative on and after July 1, 2016.

(b) On and after July 1, 2016, any unobligated amounts remaining in any fund established for the purposes of this chapter, including the repayment of disbursed moneys, or any interest earned from the investment of those moneys or any other moneys accruing to the fund from any source, shall be transferred to the Home Purchase Assistance Fund and are continuously appropriated to the agency for the purposes described in Section 51342.

SEC. 83. Section 51618 of the Health and Safety Code is repealed.

SEC. 84. Section 51619 of the Health and Safety Code is repealed.

SEC. 85. Section 51622 of the Health and Safety Code is amended to read:

51622. (a) The agency may contract with any private person or public agency for review of the administration of this part and for assistance in implementing this part.

(b) The agency shall prepare a biennial report on the condition of the program of loan and bond insurance authorized by this part. The report of the evaluation shall include an evaluation of program effectiveness in relation to cost and shall include recommendations and suggested legislation for the improvement of the program, if any. The agency shall obtain an annual agreed-upon procedures engagement of the insurance fund's books and accounts with respect to its activities under this part to be made at least once for each calendar year by an independent certified public accountant. A copy of the annual agreed-upon procedures engagement and biennial report shall be transmitted to the Governor, to the chairperson and vice-chairperson of the Senate and Assembly housing policy committees, the Senate and Assembly budget committees, and the Joint Legislative Budget Committee, and made available for review by interested parties no later than November 1 of each year for the annual agreed-upon procedures engagement and November 1 biennially for the program evaluation report.

(c) For purposes of this section, the agreed-upon procedures engagement shall be conducted in accordance with the Statements on Standards for Attestation Engagements Number 10, as issued by the American Institute of Certified Public Accountants.

SEC. 86. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the “tax,” described by Section 12201, 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, relating to low-income housing credit, 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) 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 low-income housing project shall be located in California and shall meet either of the following requirements:

(i) 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, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(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, relating to low-income housing credit. 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, 2020, 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, relating to determination of distributive share.

(ii) This subparagraph 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.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an “S” corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(F) (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, relating to increase in credit for buildings in high-cost areas, 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, relating to low-income housing credit, 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, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(G) (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, relating to increase in credit for buildings in high-cost areas, 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, relating to low-income housing credit, 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, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) 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, relating to temporary minimum credit rate for nonfederally subsidized new buildings, 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.

(2) 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.

(3) 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 1715l(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, relating to low-income housing credit.

(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, relating to rehabilitation expenditures treated as separate new building, 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, relating to qualified low-income building, 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, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(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, relating to low-income housing credit.

(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 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, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term “credit period” as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, 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, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, 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, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions 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, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not 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 17058, 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, relating to compliance period, 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) (1) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) 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:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and 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.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(G) 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.

(H) 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 the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. 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, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, 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 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 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 (3) 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.

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term “secretary” shall be replaced by the term “Franchise Tax Board.”

(l) In the case in which the credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) 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, apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, do not apply.

(o) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state. For purposes of this subparagraph, “taxpayer allowed the credit under this section” means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(p) The California Tax Credit Allocation Committee 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 California Tax Credit Allocation Committee pursuant to this section.

(q) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

SEC. 87. Section 17053.88.5 is added to the Revenue and Taxation Code, to read:

17053.88.5. (a) In the case of a qualified taxpayer who donates fresh fruits or fresh vegetables to a food bank located in California under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code, for taxable years beginning on or after January 1, 2017, and before January 1, 2022, there shall be allowed as a credit against the “net tax,” defined by Section 17039, an amount equal to 15 percent of the qualified value of those fresh fruits or fresh vegetables.

(b) For purposes of this section:

(1) “Qualified taxpayer” means the person responsible for planting a crop, managing the crop, and harvesting the crop from the land.

(2) (A) “Qualified value” shall be calculated by using the weighted average wholesale price based on the qualified taxpayer’s total like grade wholesale sales of the donated item sold within the calendar month of the qualified taxpayer’s donation.

(B) If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer’s donation, the “qualified value”

shall be equal to the nearest regional wholesale market price for the calendar month of the donation based upon the same grade products as published by the United States Department of Agriculture's Agricultural Marketing Service or its successor.

(c) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the qualified taxpayer that is eligible for the credit shall be reduced by the amount of the credit provided in subdivision (a).

(d) The donor shall provide to the nonprofit organization the qualified value of the donated fresh fruits or fresh vegetables and information regarding the origin of where the donated fruits or vegetables were grown, and upon receipt of the donated fresh fruits or fresh vegetables, the nonprofit organization shall provide a certificate to the donor. The certificate shall contain a statement signed and dated by a person authorized by that organization that the product is donated under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code. The certificate shall also contain the type and quantity of product donated, the name of donor or donors, the name and address of the donee nonprofit organization, and, as provided by the donor, the qualified value of the donated fresh fruits or fresh vegetables and its origins. Upon the request of the Franchise Tax Board, the qualified taxpayer shall provide a copy of the certification to the Franchise Tax Board.

(e) The credit allowed by this section may be claimed only on a timely filed original return.

(f) In the case where 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 for the six succeeding years if necessary, until the credit has been exhausted.

(g) In accordance with Section 41, the purpose of the credit is to increase fresh fruits and vegetable donations to food banks. Using the information available to the Franchise Tax Board from the certificates required under subdivision (d) and subdivision (d) of Section 23688.5, the Franchise Tax Board shall report to the Legislature on or before December 1, 2019, and each December 1 thereafter until the inoperative date specified in subdivision (h), regarding the utilization of the credit authorized by this section and Section 23688.5. The Franchise Tax Board shall also include in the report the qualified value of the fresh fruits and fresh vegetables donated, the county in which the products originated, and the month the donation was made.

(h) (1) A report required to be submitted pursuant to subdivision (g) shall be submitted in compliance with Section 9795 of the Government Code.

(2) The requirement for submitting a report imposed under subdivision (g) is inoperative on January 1, 2021, pursuant to Section 10231.5 of the Government Code.

(i) This section shall be repealed on December 1, 2022.

SEC. 88. 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,” defined by Section 17039, 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, relating to low-income housing credit, 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, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(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, relating to low-income housing credit. 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, 2020, 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, relating to determination of distributive share.

(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 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.

(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, relating to low-income housing credit, 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, relating to increase in credit for buildings in high-cost areas, 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, relating to low-income housing credit, 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, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(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, relating to increase in credit for buildings in high-cost areas, 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, relating to low-income housing credit, 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, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, 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, relating to temporary minimum credit rate for nonfederally subsidized new buildings, 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(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, relating to low-income housing credit.

(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, relating to rehabilitation expenditures treated as separate new building, 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, relating to qualified low-income building, 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, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(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, relating to low-income housing credit.

(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 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, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term “credit period” as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, 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, relating to special rules for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, 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, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions 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, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not 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, relating to compliance period, 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, relating to recapture of credit, does not 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, 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, relating to low-income housing credit, 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, relating to qualified low-income housing project.

(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 the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. 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, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, 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 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 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.

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term “secretary” shall be replaced by the term “Franchise Tax Board.”

(l) In the case in which the credit allowed under this section exceeds the net tax, the excess may be carried over to reduce the net tax in the following year, and succeeding years, if necessary, until the credit has been exhausted.

(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 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, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, do not apply.

(q) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state. For purposes of this subparagraph, “taxpayer allowed the credit under this section” means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and

sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(r) The California Tax Credit Allocation Committee 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 California Tax Credit Allocation Committee pursuant to this section.

(s) The amendments to this section made by Chapter 1222 of the Statutes of 1993 apply only to taxable years beginning on or after January 1, 1994.

(t) 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 credit, remains in effect. Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

SEC. 89. Section 18900.24 of the Revenue and Taxation Code is amended to read:

18900.24. All money transferred to the Habitat for Humanity Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board, the Controller, and the Department of Housing and Community Development for reimbursement of all costs incurred by the Franchise Tax Board, the Controller, and the Department of Housing and Community Development in connection with their duties under this article.

(b) (1) To the Department of Housing and Community Development for disbursement to Habitat for Humanity of California, Inc., a California nonprofit public benefit corporation representing and supporting California Habitat for Humanity affiliates as a state-support organization.

(2) Habitat for Humanity of California, Inc., shall submit a plan to the Department of Housing and Community Development, within 60 calendar days of receiving a disbursement, for the use and competitive project-specific distribution of moneys pursuant to this article to Habitat for Humanity affiliates in California that are in active status, as described on the Business Search page of the Secretary of State's Internet Web site, and that are exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(c) Habitat for Humanity of California, Inc., shall not use more than 5 percent of the moneys received pursuant to this article for administrative expenses.

(d) A Habitat for Humanity affiliate shall not use the moneys received pursuant to this article for administrative expenses or for purposes outside of California.

(e) Habitat for Humanity of California, Inc., shall submit an annual audit of the program to the Department of Housing and Community Development within 60 calendar days of the completion of the audit.

SEC. 90. 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," 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, relating to low-income housing credit, 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, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(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, relating to low-income housing credit. 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, 2020, 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, relating to determination of distributive share.

(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 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.

(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, relating to low-income housing credit, 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, relating to increase in credit for buildings in high-cost areas, 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, relating to low-income housing credit, 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, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(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, relating to increase in credit for buildings in high-cost areas, 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, relating to low-income housing credit, 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, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, 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, relating to temporary minimum credit rate for nonfederally subsidized new buildings, 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 1715l(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, relating to low-income housing credit.

(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, relating to rehabilitation expenditures treated as separate new building, 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, relating to qualified low-income building, 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, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(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, relating to low-income housing credit.

(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 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, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term “credit period” as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, 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, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, 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, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions 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, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not 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 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, relating to compliance period, 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, relating to recapture of credit, does not 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, relating to low-income housing credit, 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, relating to qualified low-income housing project.

(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 the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. 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, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, 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, relating to certifications and other reports to secretary, shall be modified as follows:

The term “secretary” shall be replaced by the term “Franchise Tax Board.”

(l) In the case in which the credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(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 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, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, 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) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) (i) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state.

(ii) For purposes of this subparagraph, “taxpayer allowed the credit under this section” means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision without regard to any of the following:

(I) The purchase of a credit under this section pursuant to this subdivision.

(II) The assignment of a credit under this section pursuant to subdivision

(q).

(III) The assignment of a credit under this section pursuant to Section 23363.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee,

may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(s) The California Tax Credit Allocation Committee 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 California Tax Credit Allocation Committee pursuant to this section.

(t) Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

(u) 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 credit, remains in effect.

(v) The amendments to this section made by Chapter 1222 of the Statutes of 1993 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. 91. Section 23688.5 is added to the Revenue and Taxation Code, to read:

23688.5. (a) In the case of a qualified taxpayer who donates fresh fruits or fresh vegetables to a food bank located in California under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code, for taxable years beginning on or after January 1, 2017, and before January 1, 2022, there shall be allowed as a credit against the “tax,” defined by Section 23036, an amount equal to 15 percent of the qualified value of those fresh fruits or fresh vegetables.

(b) For purposes of this section:

(1) “Qualified taxpayer” means the person responsible for planting a crop, managing the crop, and harvesting the crop from the land.

(2) (A) “Qualified value” shall be calculated by using the weighted average wholesale price based on the qualified taxpayer’s total like grade wholesale sales of the donated item sold within the calendar month of the qualified taxpayer’s donation.

(B) If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer’s donation, the “qualified value” shall be equal to the nearest regional wholesale market price for the calendar month of the donation based upon the same grade products as published by the United States Department of Agriculture’s Agricultural Marketing Service or its successor.

(c) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the qualified taxpayer that is eligible for the credit shall be reduced by the amount of the credit provided in subdivision (a).

(d) The donor shall provide to the nonprofit organization the qualified value of the donated fresh fruits or fresh vegetables and information regarding the origin of where the donated fruits or vegetables were grown, and upon receipt of the donated fresh fruits or fresh vegetables, the nonprofit organization shall provide a certificate to the donor. The certificate shall contain a statement signed and dated by a person authorized by that organization that the product is donated under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code. The certificate shall also contain the type and quantity of product donated, the name of donor or donors, the name and address of the donee nonprofit organization, and, as provided by the donor, the qualified value of the donated fresh fruits or fresh vegetables and its origins. Upon the request of the Franchise Tax Board, the qualified taxpayer shall provide a copy of the certification to the Franchise Tax Board.

(e) The credit allowed by this section may be claimed only on a timely filed original return.

(f) 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 for the six succeeding years if necessary, until the credit has been exhausted.

(g) This section shall be repealed on December 1, 2022.

SEC. 92. Section 31020 of the Revenue and Taxation Code is repealed.

SEC. 93. Section 1058.5 of the Water Code is amended to read:

1058.5. (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:

(1) The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter’s priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.

(2) The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.

(b) Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.

(c) An emergency regulation adopted by the board under this section may remain in effect for up to 270 days, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section

may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

(d) In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

(e) (1) Notwithstanding subdivision (b) of Section 1551 or subdivision (e) of Section 1848, a civil liability imposed under Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 by the board or a court for a violation of an emergency conservation regulation adopted pursuant to this section shall be deposited, and separately accounted for, in the Water Rights Fund. Funds deposited in accordance with this subdivision shall be available, upon appropriation, for water conservation activities and programs.

(2) For purposes of this subdivision, an “emergency conservation regulation” means an emergency regulation that requires an end user of water, a water retailer, or a water wholesaler to conserve water or report to the board on water conservation. Water conservation includes restrictions or limitations on particular uses of water or a reduction in the amount of water used or served, but does not include curtailment of diversions when water is not available under the diverter’s priority of right or reporting requirements related to curtailments.

SEC. 94. Section 1525 of the Water Code is amended to read:

1525. (a) Each person or entity who holds a permit or license to appropriate water, and each lessor of water leased under Chapter 1.5 (commencing with Section 1020) of Part 1, shall pay an annual fee according to a fee schedule established by the board.

(b) Each person or entity who files any of the following shall pay a fee according to a fee schedule established by the board:

(1) An application for a permit to appropriate water.

(2) A registration of appropriation for a small domestic use, small irrigation use, or livestock stockpond use.

(3) A petition for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit.

(4) A petition to change the point of diversion, place of use, or purpose of use, under a permit, license, or registration.

(5) A petition to change the conditions of a permit or license, requested by the permittee or licensee, that is not otherwise subject to paragraph (3) or (4).

(6) A petition to change the point of discharge, place of use, or purpose of use, of treated wastewater, requested pursuant to Section 1211.

(7) An application for approval of a water lease agreement.

(8) A request for release from priority pursuant to Section 10504.

(9) An application for an assignment of a state-filed application pursuant to Section 10504.

(10) A statement of water diversion and use pursuant to Part 5.1 (commencing with Section 5100) that reports that water was used for cannabis cultivation.

(c) The board shall set the fee schedule authorized by this section so that the total amount of fees collected pursuant to this section equals that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, and enforcement of permits, licenses, certificates, and registrations to appropriate water, water leases, statements of water diversion and use for cannabis cultivation, and orders approving changes in point of discharge, place of use, or purpose of use of treated wastewater. The board may include, as recoverable costs, but is not limited to including, the costs incurred in reviewing applications, registrations, statements of water diversion and use for cannabis cultivation, petitions and requests, prescribing terms of permits, licenses, registrations, and change orders, enforcing and evaluating compliance with permits, licenses, certificates, registrations, change orders, and water leases, inspection, monitoring, planning, modeling, reviewing documents prepared for the purpose of regulating the diversion and use of water, applying and enforcing the prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code, and the administrative costs incurred in connection with carrying out these actions.

(d) (1) The board shall adopt the schedule of fees authorized under this section as emergency regulations in accordance with Section 1530.

(2) For filings subject to subdivision (b), the schedule may provide for a single filing fee or for an initial filing fee followed by an annual fee, as appropriate to the type of filing involved, and may include supplemental fees for filings that have already been made but have not yet been acted upon by the board at the time the schedule of fees takes effect.

(3) The board shall set the amount of total revenue collected each year through the fees authorized by this section at an amount equal to the amounts appropriated by the Legislature for expenditure for support of water rights program activities from the Water Rights Fund established under Section 1550, taking into account the reserves in the Water Rights Fund. The board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated. If the board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated, the board may further adjust the annual fees to compensate for the over or under collection of revenue.

(e) Annual fees imposed pursuant to this section for the 2003–04 fiscal year shall be assessed for the entire 2003–04 fiscal year.

SEC. 95. Section 1535 of the Water Code is amended to read:

1535. (a) Any fee subject to this chapter that is required in connection with the filing of an application, registration, request, statement, or proof of claim, other than an annual fee required after the period covered by the initial filing fee, shall be paid to the board.

(b) If a fee established under subdivision (b) of Section 1525, Section 1528, or Section 13160.1 is not paid when due, the board may cancel the application, registration, petition, request, statement, or claim, or may refer the matter to the State Board of Equalization for collection of the unpaid fee.

SEC. 96. Section 1552 of the Water Code is amended to read:

1552. Except as provided in subdivision (e) of Section 1058.5, moneys in the Water Rights Fund are available for expenditure, upon appropriation by the Legislature, for the following purposes:

(a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

(b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

(c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

(d) For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

(e) For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

SEC. 97. Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

(b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

(c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

(d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

(1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

(2) Any term or condition of a permit, license, certification, or registration issued under this division.

(3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division

6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

(4) A regulation adopted under Section 1058.5.

(5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

(6) Any diversion or use of water for cannabis cultivation if any of the following applies:

(A) A license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

(B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(C) The diversion or use is not in compliance with a requirement imposed under subdivision (d) or (e) of Section 19332.2 of the Business and Professions Code.

(e) This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 98. Section 1840 of the Water Code is amended to read:

1840. (a) (1) Except as provided in subdivision (b), a person who, on or after January 1, 2016, diverts 10 acre-feet of water per year or more under a permit or license shall install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage. The measurements shall be made using the best available technologies and best professional practices, as defined in Section 5100, using a device or methods satisfactory to the board, as follows:

(A) A device shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained. The permittee or licensee shall provide the board with evidence that the device has been installed with the first report submitted after installation of the device. The permittee or licensee shall provide the board with evidence demonstrating that the device is functioning properly as part of the reports submitted at five-year intervals after the report documenting installation of the device, or upon request of the board.

(B) In developing regulations pursuant to Section 1841, the board shall consider devices and methods that provide accurate measurement of the total amount diverted and the rate of diversion. The board shall consider devices and methods that provide accurate measurements within an acceptable range of error, including the following:

(i) Electricity records dedicated to a pump and recent pump test.

(ii) Staff gage calibrated with an acceptable streamflow rating curve.

(iii) Staff gage calibrated for a flume or weir.

(iv) Staff gage calibrated with an acceptable storage capacity curve.

(v) Pressure transducer and acceptable storage capacity curve.

(2) The permittee or licensee shall maintain a record of all diversion monitoring that includes the date, time, and diversion rate at time intervals of one hour or less, and the total amount of water diverted. These records shall be included with reports submitted under the permit or license, as required under subdivision (c), or upon request of the board.

(b) (1) The board may modify the requirements of subdivision (a) upon finding either of the following:

(A) That strict compliance is infeasible, is unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water.

(B) That the need for monitoring and reporting is adequately addressed by other conditions of the permit or license.

(2) The board may increase the 10-acre-foot reporting threshold of subdivision (a) in a watershed or subwatershed, after considering the diversion reporting threshold in relation to quantity of water within the watershed or subwatershed. The board may increase the 10-acre-foot reporting threshold to 25 acre-feet or above if it finds that the benefits of the additional information within the watershed or subwatershed are substantially outweighed by the cost of installing measuring devices or employing methods for measurement for diversions at the 10-acre-foot threshold.

(c) At least annually, a person who diverts water under a registration, permit, or license shall report to the board the following information:

(1) The quantity of water diverted by month.

(2) The maximum rate of diversion by months in the preceding calendar year.

(3) The information required by subdivision (a), if applicable.

(4) The amount of water used, if any, for cannabis cultivation.

(d) Compliance with the applicable requirements of this section is a condition of every registration, permit, or license.

SEC. 99. Section 1845 of the Water Code is amended to read:

1845. (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

(b) (1) A person or entity who violates a cease and desist order issued pursuant to this chapter may be liable in an amount not to exceed the following:

(A) If the violation occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government

Code) based on drought conditions, ten thousand dollars (\$10,000) for each day in which the violation occurs.

(B) If the violation is not described by subparagraph (A), one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(3) Civil liability may be imposed administratively by the board pursuant to Section 1055.

SEC. 100. Section 1846 of the Water Code is amended to read:

1846. (a) A person or entity may be liable for a violation of any of the following in an amount not to exceed five hundred dollars (\$500) for each day in which the violation occurs:

(1) A term or condition of a permit, license, certificate, or registration issued under this division.

(2) A regulation or order adopted by the board.

(b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(c) Civil liability may be imposed administratively by the board pursuant to Section 1055.

SEC. 101. Section 1847 is added to the Water Code, to read:

1847. (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:

(1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.

(2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

(b) Liability may be imposed for any of the following violations:

(1) Violation of a limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(2) Failure to submit information, or making a material misstatement in information submitted, under subdivision (a), (b), or (c) of Section 19332.2 of the Business and Professions Code.

(3) Violation of any requirement imposed under subdivision (e) of Section 19332.2 of the Business and Professions Code.

(4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

(c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(d) Civil liability may be imposed administratively by the board pursuant to Section 1055.

SEC. 102. Section 1848 is added to the Water Code, to read:

1848. (a) Except as provided in subdivisions (b) and (c), remedies under this chapter are in addition to, and do not supersede or limit, any other remedy, civil or criminal.

(b) Civil liability shall not be imposed both administratively and by the superior court for the same violation.

(c) No liability shall be recoverable under Section 1846 or 1847 for a violation for which liability is recovered under Section 1052.

(d) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(e) All funds recovered pursuant to this article shall be deposited in the Water Rights Fund established pursuant to Section 1550.

SEC. 103. Section 5103 of the Water Code is amended to read:

5103. Each statement shall be prepared on a form provided by the board. The statement shall include all of the following information:

(a) The name and address of the person who diverted water and of the person filing the statement.

(b) The name of the stream or other source from which water was diverted, and the name of the next major stream or other body of water to which the source is tributary.

(c) The place of diversion. The location of the diversion works shall be depicted on a specific United States Geological Survey topographic map, or shall be identified using the California Coordinate System, or latitude and longitude measurements. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.

(d) The capacity of the diversion works and of the storage reservoir, if any, and the months in which water was used during the preceding calendar year.

(e) (1) (A) At least monthly records of water diversions. The measurements of the diversion shall be made in accordance with Section 1840.

(B) (i) On and after July 1, 2016, the measurement of a diversion of 10 acre-feet or more per year shall comply with regulations adopted by the board pursuant to Article 3 (commencing with Section 1840) of Chapter 12 of Part 2.

(ii) The requirement of clause (i) is extended to January 1, 2017, for any statement filer that enters into a voluntary agreement that is acceptable to the board to reduce the statement filer's diversions during the 2015 irrigation season.

(2) (A) The terms of, and eligibility for, any grant or loan awarded or administered by the department, the board, or the California Bay-Delta

Authority on behalf of a person that is subject to paragraph (1) shall be conditioned on compliance with that paragraph.

(B) Notwithstanding subparagraph (A), the board may determine that a person is eligible for a grant or loan even though the person is not complying with paragraph (1), if both of the following apply:

(i) The board determines that the grant or loan will assist the grantee or loan recipient in complying with paragraph (1).

(ii) The person has submitted to the board a one-year schedule for complying with paragraph (1).

(C) It is the intent of the Legislature that the requirements of this subdivision shall complement and not affect the scope of authority granted to the board by provisions of law other than this article.

(f) (1) The purpose of use.

(2) The amount of water used, if any, for cannabis cultivation.

(g) A general description of the area in which the water was used. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map and on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.

(h) The year in which the diversion was commenced as near as is known.

SEC. 104. Section 13149 is added to the Water Code, to read:

13149. (a) (1) (A) The board, in consultation with the Department of Fish and Wildlife, shall adopt principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. The principles and guidelines adopted under this section may include, but are not limited to, instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage. The principles and guidelines may include requirements that apply to groundwater extractions where the board determines those requirements are reasonably necessary for purposes of this section.

(B) Prior to adopting principles and guidelines under this section, the board shall allow for public comment and hearing, pursuant to Section 13147. The board shall provide an opportunity for the public to review and comment on the proposal for at least 60 days and shall consider the public comments before adopting the principles and guidelines.

(2) The board, in consultation with the Department of Fish and Wildlife, shall adopt principles and guidelines pending the development of long-term principles and guidelines under paragraph (1). The principles and guidelines, including the interim principles and guidelines, shall include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. The board may update the interim principles and guidelines as it determines to be reasonably necessary for purposes of this section.

(3) The Department of Fish and Wildlife, in consultation with the board, may establish interim requirements to protect fish and wildlife from the impacts of diversions for cannabis cultivation pending the adoption of

long-term principles and guidelines by the board under paragraph (1). The requirements may also include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation.

(b) (1) Notwithstanding Section 15300.2 of Title 14 of the California Code of Regulations, actions of the board and the Department of Fish and Wildlife under this section shall be deemed to be within Section 15308 of Title 14 of the California Code of regulations, provided that those actions do not involve relaxation of existing streamflow standards.

(2) The board shall adopt principles and guidelines under this section as part of state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7.

(3) If the Department of Fish and Wildlife establishes interim requirements under this section, it shall do so 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 those interim requirements is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the emergency regulations shall remain in effect until revised by the Department of Fish and Wildlife, provided that the emergency regulations shall not apply after long-term principles and guidelines adopted by the board under this section take effect for the stream or other body of water where the diversion is located.

(4) A diversion for cannabis cultivation is subject to both the interim principles and guidelines and the interim requirements in the period before final principles and guidelines are adopted by the board.

(5) The board shall have primary enforcement responsibility for principles and guidelines adopted under this section, and shall notify the Department of Food and Agriculture of any enforcement action taken.

SEC. 105. The California Tax Credit Allocation Committee shall enter into an agreement with the Franchise Tax Board to pay any costs incurred by the Franchise Tax Board in the administration of subdivision (o) of Section 12206, subdivision (q) of Section 17058, and subdivision (r) of Section 23610.5 of the Revenue and Taxation Code.

SEC. 106. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 107. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

O