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**SB-1289 Maintenance of the codes.** (2017-2018)

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Date Published: 07/09/2018 09:00 PM

**Senate Bill No. 1289**

CHAPTER 92

An act to amend Sections 2894, 3502.1.5, 4301, 6081, 7500.3, 7521, 7538.5, 7539, 7639.08, 7685.2, 10145, 19239, 19245, 19250, 25682, 26001, 26013, 26051, 26055, 26057, 26060, 26060.1, 26067, 26068, 26070.5, 26110, 26152, 26211, and 26231 of, to amend the heading of Article 9 (commencing with Section 19285) of Chapter 3.1 of Division 8 of, to amend the heading of Chapter 5 (commencing with Section 22980) of Division 8.6 of, and to repeal Section 7530 of, the Business and Professions Code, to amend Sections 846, 945, 1550.5, 1798.25, 1938, and 4615 of the Civil Code, to amend Sections 38, 77, 116.221, 1159, 1160, 2016.080, 2034.260, and 2093 of the Code of Civil Procedure, to amend Sections 1401.5 and 12317 of the Corporations Code, to amend Sections 35330, 44010, 44225, 44978.2, 46601, 48204.4, 51422, 54444.2, 84750.7, 87623, and 88912 of the Education Code, to amend Sections 10, 9067, 9111, 9287, 9310, 9503, and 21551 of, and to amend and renumber Section 14228 of, the Elections Code, to amend Sections 22681, 22686, and 22687 of the Financial Code, to amend Section 2080.1 of the Fish and Game Code, to amend Sections 224, 4051, 11792, 14649, 35016, 35221, 54291, 79163, 79187, and 79851 of the Food and Agricultural Code, to amend Sections 915, 946.6, 955.9, 1001, 6253.2, 6253.4, 6254.3, 6268, 8670.32, 9147.7, 9605, 12012.81, 12583, 12993, 14670.35, 14838, 15827, 15830, 15831, 15832, 15841, 16500.5, 20351, 20636, 20636.1, 20825, 22874.3, 22958.1, 31855.3, 53630.5, 65589.5, 65621, 65623, 65624, 65863.11, 65913.4, 66201, 68514, 68803, 69141, 76000.10, 84504.2, 84504.3, 84504.5, 84602.3, and 100002 of, to amend the heading of Chapter 11 (commencing with Section 3550) of Division 4 of Title 1 of, and to amend and renumber Section 12012.91 of, the Government Code, to amend Sections 1336.3, 1367.04, 1367.042, 1373.96, 1569.699, 1788, 7000, 7103, 7117, 11361.5, 11362.4, 25507, 42402, 44361, 50710.1, 100851, 100852, 103055, 103780, 111175, 111190, 116277, and 116625 of the Health and Safety Code, to amend Sections 1063.2, 10133.8, 10133.11, and 10493 of the Insurance Code, to amend Sections 1684, 1697.5, and 1720 of the Labor Code, to amend Sections 232, 435, and 1451 of the Military and Veterans Code, to amend Sections 831.4, 1202.4, 2808, 5075, 11105, and 31630 of, and to amend and renumber Section 29581 of, the Penal Code, to amend Section 2356.5 of the Probate Code, to amend Section 3501 of the Public Contract Code, to amend Section 14571.9 of the Public Resources Code, to amend Sections 454.52, 2836.7, 99313, 99314, 99314.1, 99314.2, 103326, 120102.5, 132354.1, and 132656 of the Public Utilities Code, to amend Sections 259.15, 721.5, 7102, 7285.91, 7653.2, 11053, 17039, 17062, 17063, 17132.11, 17276, 17736, 18152, 23802, 34010, 34011, 34018, and 60050 of, and to repeal Sections 17750 and 19133.5 of, the Revenue and Taxation Code, to amend Sections 155.7, 2032, 30911, and 30914.7 of the Streets and Highways Code, to amend Sections 545, 1808.1, 22508.5, 25258, 34687, and 34692 of the Vehicle Code, to amend Sections 189.3, 1825, 7049, 13276, 31142.50, and 71611.5 of the Water Code, to amend Sections 727, 4418.25, 4648, 4677, 4698, 5270.15, 5328, 5835.3, 6509, 7502.5, 10951.5, 11323.4, 11403.05, 11403.2, 14029.91, 14029.92, 14132.100, 14132.97, 14197, 14727, and 16501 of the Welfare and Institutions Code, to amend Sections 201, 409, and 801 of the San Joaquin River Exchange Contractors Groundwater

Sustainability Agency Act (Chapter 357 of the Statutes of 2017), to amend Section 1 of Chapter 479 of the Statutes of 2017, and to amend Section 29 of the Santa Clarita Valley Water Agency Act (Chapter 833 of the Statutes of 2017), relating to the maintenance of the codes.

[ Approved by Governor July 09, 2018. Filed with Secretary of State July 09, 2018. ]

## LEGISLATIVE COUNSEL'S DIGEST

SB 1289, Committee on Judiciary. Maintenance of the codes.

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

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

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 2894 of the Business and Professions Code is amended to read:

**2894.** (a) All money in the Vocational Nursing and Psychiatric Technicians Fund shall be available, upon appropriation by the Legislature, to carry out this chapter, including the promotion of nursing education in this state, and Chapter 10 (commencing with Section 4500), and for the refund, in accordance with law, of license fees or other moneys paid into the Vocational Nursing and Psychiatric Technicians Fund under the provisions of this chapter and Chapter 10 (commencing with Section 4500).

(b) Claims against the Vocational Nursing and Psychiatric Technicians Fund shall be audited by the Controller, and shall be paid by the Treasurer upon warrants drawn by the Controller.

**SEC. 2.** Section 3502.1.5 of the Business and Professions Code is amended to read:

**3502.1.5.** This chapter or any other provision of law shall not be construed to prohibit a physician assistant from administering or providing buprenorphine to a patient, or transmitting orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act (Public Law 114-198), as enacted on July 22, 2016, including the following:

(a) The requirement that the physician assistant complete not fewer than 24 hours of initial training provided by an organization listed in sub-subclause (aa) of subclause (II) of clause (iv) of subparagraph (G) of paragraph (2) of subdivision (g) of Section 823 of Title 21 of the United States Code, or any other organization that the United States Secretary of Health and Human Services determines is appropriate for the purposes of that sub-subclause, that addresses the following:

- (1) Opioid maintenance and detoxification.
- (2) Appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of opioid use disorder.
- (3) Initial and periodic patient assessments, including substance use monitoring.
- (4) Individualized treatment planning, overdose reversal, and relapse prevention.
- (5) Counseling and recovery support services.
- (6) Staffing roles and considerations.
- (7) Diversion control.
- (8) Other best practices, as identified by the United States Secretary of Health and Human Services.

(b) The alternative requirement that the physician assistant have other training or experience that the United States Secretary of Health and Human Services determines will demonstrate the ability of the physician assistant to treat and manage opiate-dependent patients.

(c) The requirement that the physician assistant be supervised by, or work in collaboration with, a licensed physician and surgeon.

**SEC. 3.** Section 4301 of the Business and Professions Code is amended to read:

**4301.** The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct includes, but is not limited to, any of the following:

(a) Procurement of a license by fraud or misrepresentation.

(b) Incompetence.

(c) Gross negligence.

(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or administering, or offering to sell, furnish, give away, or administer, any controlled substance to an addict.

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(m) The cash compromise of a charge of violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code relating to the Medi-Cal program.

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the board pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the board may exceed that of another state, consistent with the board's enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

(p) Actions or conduct that would have warranted denial of a license.

(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a) of Section 256b of Title 42 of the United States Code.

(s) The clearly excessive furnishing of dangerous drugs by a wholesaler to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities. Factors to be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall include, but not be limited to, the amount of dangerous drugs furnished to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities, the previous ordering pattern of the pharmacy, and the general patient population to whom the pharmacy distributes the dangerous drugs. That a wholesaler has established, and employs, a tracking system that complies with the requirements of subdivision (b) of Section 4164 shall be considered in determining whether there has been a violation of this subdivision. This provision shall not be interpreted to require a wholesaler to obtain personal medical information or be authorized to permit a wholesaler to have access to personal medical information except as otherwise authorized by Section 56 and following of the Civil Code. For purposes of this section, "long-term care facility" has the same meaning given the term in Section 1418 of the Health and Safety Code.

(t) The acquisition of a nonprescription diabetes test device from a person that the licensee knew or should have known was not the nonprescription diabetes test device's manufacturer or the manufacturer's authorized distributor as identified in Section 4160.5.

(u) The submission of a reimbursement claim for a nonprescription diabetes test device to a pharmaceutical benefit manager, health insurer, government agency, or other third-party payor when the licensee knew or reasonably should have known that the diabetes test device was not purchased either directly from the manufacturer or from the nonprescription diabetes test device manufacturer's authorized distributors as identified in Section 4160.5.

**SEC. 4.** Section 6081 of the Business and Professions Code is amended to read:

**6081.** Upon the making of any decision recommending the disbarment or suspension from practice of any member of the State Bar, the board shall immediately file a certified copy of the decision, together with the transcript and the findings, with the Clerk/Executive Officer of the Supreme Court. Upon enrolling a member as an inactive member pursuant to Section 6007 of this code, or upon terminating or refusing to terminate that enrollment pursuant to that section, the board shall immediately give appropriate written notice to the member and to the Clerk/Executive Officer of the Supreme Court.

**SEC. 5.** Section 7500.3 of the Business and Professions Code is amended to read:

**7500.3.** (a) A repossession agency shall not include any of the following:

(1) Any bank subject to the jurisdiction of the Commissioner of Business Oversight of the State of California under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of the Currency of the United States.

(2) Any person organized, chartered, or holding a license or authorization certificate to make loans pursuant to the laws of this state or the United States who is subject to supervision by any official or agency of this state or the United States.

(3) An attorney at law in performing his or her duties as an attorney at law.

(4) The legal owner of collateral that is subject to a security agreement or a bona fide employee employed exclusively and regularly by the legal owner of collateral that is subject to a security agreement. With regard to collateral subject to registration under the Vehicle Code, the legal owner shall be the legal owner listed on the records of the Department of Motor Vehicles or the seller or lessor named on a valid conditional sales contract or rental or lease agreement if the seller or lessor is a licensed vehicle dealer as defined in Section 285 of the Vehicle Code.

(5) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties.

(6) A qualified certificate holder or a registrant when performing services for, or on behalf of, a licensee.

(7) A dealer, including its bona fide employees, regularly engaged in the sale of collateral designed primarily for agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, for use in the care of lawns and gardens, or for use as special construction equipment, as defined in subdivision (b) of Section 565 of the Vehicle Code, or for use in the production, generation, storage, or transmission of mechanical or electric energy, that is subject to a security agreement of the manufacturer or an affiliate of that manufacturer, provided the following requirements are met:

(A) The dealer or the secured party maintains adequate records of all repossessions.

(B) The dealer or the secured party completes a collateral condition report.

(C) The dealer or the secured party records any odometer or hour meter readings.

(D) The dealer or the secured party creates records of all transactions pertaining to the sale of the collateral, including, but not limited to, bids solicited and received, cash received, remittances to the seller, and allocation of any moneys not so remitted to appropriate ledger accounts.

(E) The dealer removes and stores any personal effects that were taken with the collateral for a minimum of 60 days in a secure manner, completes an inventory of the personal effects, and notes the date that inventory is taken.

(F) If personal effects that were taken with the collateral are to be released to someone other than the debtor, the dealer shall request written authorization to do so from the debtor. The dealer may dispose of personal effects after storing them for at least 60 days pursuant to subparagraph (E).

(b) Entities described in paragraph (7) of subdivision (a), or a debtor, lienholder, lessor, lessee, registered owner, or an agent thereof shall not by any means, directly or indirectly, expressed or implied, instruct, coerce, or attempt to coerce another person to violate any law, regulation, or rule regarding the recovery of collateral, including, but not limited to, the provisions of this chapter or Section 9609 of the Commercial Code.

**SEC. 6.** Section 7521 of the Business and Professions Code is amended to read:

**7521.** A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish or agrees to furnish any person to protect persons pursuant to Section 7521.5, or engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

(a) Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America.

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person.

(c) The location, disposition, or recovery of lost or stolen property.

(d) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property.

(e) Securing evidence to be used before any court, board, officer, or investigating committee.

For the purposes of this section, a private investigator is any person, as defined in Section 7512.3, acting for the purpose of investigating, obtaining, and reporting to any employer, or an agent designated by the employer, information concerning the employer's employees involving questions of integrity, honesty, breach of rules, or other standards of performance of job duties.

This section does not apply to a public utility regulated by the Public Utilities Commission, or its employees.

**SEC. 7.** Section 7530 of the Business and Professions Code, as added by Section 9 of Chapter 669 of the Statutes of 2014, is repealed.

**SEC. 8.** Section 7538.5 of the Business and Professions Code, as amended by Section 28 of Chapter 569 of the Statutes of 2017, is amended to read:

**7538.5.** (a) The director may refuse to issue any license provided for in this chapter to any of the following:

(1) An individual who has had any license revoked, has a license currently under suspension, or failed to renew his or her license while under suspension.

(2) An individual who, while acting as a partner of a partnership, or an officer or director of a corporation, had his or her license revoked, has a license currently under suspension, or failed to renew his or her license while under suspension.

(3) An individual, who, while acting as a partner of the partnership, or an officer or director of the corporation, meets both of the following conditions:

(A) He or she was a partner of any partnership, or an officer or director of any corporation, whose license was revoked, is currently under suspension, or was not renewed while under suspension.

(B) He or she, while acting as a partner, officer, or director, participated in any of the prohibited acts for which the license was revoked or suspended.

(4) An individual who is serving or has served as the qualified manager for any licensee that has had its license revoked, is currently under suspension, or failed to renew while under suspension.

(b) This section shall become operative on January 1, 2021.

**SEC. 9.** Section 7539 of the Business and Professions Code, as amended by Section 30 of Chapter 569 of the Statutes of 2017, is amended to read:

**7539.** (a) A licensee or officer, director, partner, or qualified manager of a licensee may divulge to any law enforcement officer or district attorney, or his or her representative, any information he or she may acquire as to any criminal offense, but he or she shall not divulge to any other person, except as otherwise required by law, any information acquired by him or her except at the direction of the employer or client for whom the information was obtained.

(b) A licensee or officer, director, partner, qualified manager, or employee of a licensee shall not knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) A written report shall not be submitted to a client except by the licensee, qualified manager, or a person authorized by one or either of them, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

(d) A licensee, or officer, director, partner, qualified manager, or employee of a licensee shall not use a badge in connection with the official activities of the licensee's business.

(e) A licensee, or officer, director, partner, qualified manager, or employee of a licensee, shall not use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) A licensee, or officer, partner, qualified manager, or employee of a licensee shall not use any identification to indicate that he or she is licensed as a private investigator other than the official identification card issued by the bureau or the business card regularly used by the business. However, a licensee may issue an employer identification card.

(g) A licensee, or officer, director, partner, qualified manager, or employee of a licensee, shall not enter any private building or portion thereof, except premises commonly accessible to the public, without the consent of the owner or of the person in legal possession thereof.

(h) A licensee shall not permit an employee or agent in his or her own name to advertise, engage clients, furnish reports or present bills to clients, or in any manner conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in the name of and under the control of the licensee.

(i) A licensee, or officer, director, partner, qualified manager, or employee of a licensee, shall not knowingly and directly solicit employment from any person who has directly sustained bodily injury or from that person's spouse or other family member to obtain authorization on behalf of the injured person as an investigator to investigate the accident or act that resulted in injury or death to that person or damage to the property of that person. This subdivision does not prohibit the soliciting of employment from that injured person's attorney, insurance company, self-insured administrator, insurance adjuster, employer, or any other person having an indirect interest in the investigation of the injury. This subdivision does not apply to any business agent or attorney employed by a labor organization. A licensee, officer, director, partner, or qualified manager of a licensee shall not pay or compensate any of his or her employees or agents on the basis of a bonus, bounty, or quota system whereby a premium is placed on the number of employer or client rule violations or infractions purportedly discovered as a result of any investigation made by a licensee.

(j) A licensee shall not use a fictitious business name in connection with the official activities of the licensee's business, except as provided by the bureau.

(k) This section shall become operative on January 1, 2021.

**SEC. 10.** Section 7639.08 of the Business and Professions Code is amended to read:

**7639.08.** (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards for applicants for hydrolysis facility licenses. In reviewing an application for a hydrolysis facility license, the bureau may consider acts of the applicant, including acts of the incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a hydrolysis facility license pursuant to Division 1.5 (commencing with Section 475).

(b) Hydrolysis chamber manufacturers may apply to the State Department of Public Health for approval of a hydrolysis chamber upon finding that the hydrolysis chamber causes the destruction of pathogenic micro-organisms pursuant to paragraph (3) of subdivision (a) of Section 118215 of the Health and Safety Code.

(c) In its approval, the State Department of Public Health shall specify the minimum parameters of pH, time, temperature, and pressure that shall be used by each hydrolysis chamber to destroy all pathogenic micro-organisms. The department may use the guidance of the hydrolysis chamber operations and maintenance manual and biologic indicator spore testing to determine this, among other factors.

(d) The hydrolysis chamber manufacturer shall pay to the State Department of Public Health, the application and evaluation fee as outlined in Section 118245 of the Health and Safety Code.

(e) Every five years, licensed hydrolysis facilities that discharge hydrolysate to a sewer collection system shall submit to the Department of Public Health the results of biological indicator spore testing as well as the last 30 days of archived electronic hydrolysis chamber data that includes the pH, time, temperature, and pressure at which the chamber was operated. Based upon this information, the department shall evaluate whether the chamber continues to destroy pathogens. The licensee shall include this evaluation in its application to renew its license. If the chamber is determined not to destroy pathogens, the bureau shall not renew its license until this has been remedied. The department may charge a fee sufficient to cover the actual hourly costs of staff conducting its five year review of the alternative technology.

(f) Once a hydrolysis chamber has been approved pursuant to subdivision (b), it may be employed by a licensed hydrolysis facility for the final disposition of human remains.

(g) The bureau shall grant hydrolysis facility licenses only to applicants that will employ a hydrolysis chamber approved by the State Department of Public Health pursuant to subdivision (b).

(h) A hydrolysis facility shall ensure or conduct annual maintenance of the hydrolysis chamber.

(i) The bureau shall not renew a hydrolysis facility license without proof of annual maintenance of the hydrolysis chamber.

**SEC. 11.** Section 7685.2 of the Business and Professions Code, as added by Section 24 of Chapter 846 of the Statutes of 2017, is amended to read:

**7685.2.** (a) A funeral director shall not enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery, crematory, or hydrolysis facility charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation or hydrolysis and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains or hydrolyzed human remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains or hydrolyzed human remains and the person who is contracting for the cremation or hydrolysis services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium or hydrolysis facility; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains or hydrolyzed human remains. The form shall be signed and dated by the person arranging for the cremation or hydrolysis and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation or hydrolysis service.

(c) A funeral director entering into a contract to furnish cremation or hydrolysis services shall provide to the purchaser of cremation or hydrolysis services, either on the first page of the contract for cremation or hydrolysis services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains or hydrolyzed human remains may remove the remains in a durable container from the place of cremation, hydrolysis, or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container or hydrolyzed human remains container cannot accommodate all cremated remains or hydrolyzed human remains of the deceased, the crematory or hydrolysis facility shall provide a larger cremated remains container or hydrolyzed human remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

(d) This section shall become operative on July 1, 2020.

**SEC. 12.** Section 10145 of the Business and Professions Code is amended to read:

**10145.** (a) (1) A real estate broker who accepts funds belonging to others in connection with a transaction subject to this part shall deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.

(2) Withdrawals may be made from a trust fund account of an individual broker only upon the signature of that broker, or in the case of a corporate broker, only upon the signature of an officer through whom the corporation is licensed pursuant to Section 10158 or 10211, or one, or more, of the following persons if specifically authorized in writing by the individual broker or officer:

(A) A real estate salesperson licensed to the broker.

(B) Another broker acting pursuant to a written agreement with the individual broker that conforms to the requirements of this part and any regulations promulgated pursuant to this part.

(C) An unlicensed employee of the individual broker, if the broker has fidelity bond or insurance coverage equal to at least the maximum amount of the trust funds to which the unlicensed employee has access at any time. For purposes of this section, bonds or insurance providing coverage shall protect the broker from intentional wrongful acts committed by an employee of that business, including theft, dishonest acts, or forgery. Bonds and insurance providing coverage may be written with a deductible of up to 5 percent of the coverage amount. For bonds and insurance with a deductible, the employing broker shall have evidence of financial responsibility that is sufficient to protect members of the public against a loss subject to the deductible amount.

Evidence of financial responsibility shall include one or more of the following:

(i) Separate bond or insurance coverage adequate to cover the amount of the deductible.

(ii) A cash deposit held in a separate account, apart from other funds of the broker, the broker's employees, or the broker's principals, in a bank or recognized depository in this state adequate to cover the amount of the fidelity bond deductible and held exclusively and solely for the purpose of paying the fidelity bond deductible amount.

(iii) Any other evidence of financial responsibility approved by the commissioner.

(3) An arrangement under which a person enumerated in subparagraph (A), (B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from responsibility or liability as provided by law in handling trust funds in the broker's custody.

(4) Notwithstanding the provisions of paragraphs (1), (2), and (3), a real estate broker collecting payments or performing services for investors or note owners in connection with loans secured by a first lien on real property may deposit funds received in trust in an out-of-state depository institution insured by the Federal Deposit Insurance Corporation, if the investor or note owner is any one of the following:

(A) The Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the United States Department of Veterans Affairs.

(B) A bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, or insurance company doing business under the authority of, and in accordance with, the laws of this state, another state, or the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or a state, district, territory, or commonwealth of the United States.

(C) Trustees of a pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars (\$15,000,000).

(D) A corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or a wholly owned subsidiary of that corporation.

(E) A syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) that is organized to purchase the promissory note.

(F) The California Housing Finance Agency or a local housing finance agency organized under the Health and Safety Code.

(G) A licensed residential mortgage lender or servicer acting under the authority of that license.

(H) A licensed real estate broker selling all or part of the loan, note, or contract to a lender or purchaser specified in subparagraphs (A) to (G), inclusive.

(5) A real estate broker who deposits funds held in trust in an out-of-state depository institution in accordance with paragraph (3) shall make available, in this state, the books, records, and files pertaining to the trust accounts to the commissioner or the commissioner's representatives or pay the reasonable expenses for travel and lodging incurred by the commissioner or the commissioner's representatives in order to conduct an examination at an out-of-state location.

(b) A real estate broker acting as a principal pursuant to Section 10131.1 shall place all funds received from others for the purchase of real property sales contracts or promissory notes secured directly or collaterally by liens on real property in a neutral escrow depository unless delivery of the contract or note is made simultaneously with the receipt of the purchase funds.

(c) A real estate salesperson who accepts trust funds from others on behalf of the broker under whom he or she is licensed shall immediately deliver the funds to the broker or, if so directed by the broker, shall deliver the funds into the custody of the broker's principal or a neutral escrow depository or shall deposit the funds into the broker's trust fund account.

(d) If not otherwise expressly prohibited by this part, a real estate broker may, at the request of the owner of trust funds or of the principals to a transaction or series of transactions from whom the broker has received trust funds, deposit the funds into an interest-bearing account in a bank, savings and loan association, credit union, or industrial loan company, the accounts of which are insured by the Federal Deposit Insurance Corporation, if all of the following requirements are met:

(1) The account is in the name of the broker as trustee for the designated beneficiary or principal of a transaction or series of transactions.

(2) All of the funds in the account are covered by insurance provided by an agency of the United States.

(3) The funds in the account are kept separate, distinct, and apart from funds belonging to the broker or to any other person for whom the broker holds funds in trust.

(4) The broker discloses to the person from whom the trust funds are received, and to a beneficiary whose identity is known to the broker at the time of establishing the account, the nature of the account, how interest will be calculated and paid under various circumstances, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.

(5) Interest earned on funds in the account shall not inure directly or indirectly to the benefit of the broker or a person licensed to the broker.

(6) In an executory sale, lease, or loan transaction in which the broker accepts funds in trust to be applied to the purchase, lease, or loan, the parties to the contract shall have specified in the contract or by collateral written agreement the person to whom interest earned on the funds is to be paid or credited.

(e) The broker shall have no obligation to place trust funds into an interest-bearing account unless requested to do so and unless all of the conditions in subdivision (d) are met, nor, in any event, if he or she advises the party making the request that the funds will not be placed in an interest-bearing account.

(f) Subdivision (d) does not preclude the commissioner from prescribing, by regulation, circumstances in which, and conditions under which, a real estate broker is authorized to deposit funds received in trust into an interest-bearing trust fund account.

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds.

(h) Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of those trust fund accounts maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

(i) As used in this section, "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by a person described in paragraph (1) or (3) of subdivision (a) of Section 17006 of that code.

**SEC. 13.** Section 19239 of the Business and Professions Code is amended to read:

**19239.** (a) Before a permit is issued, the bureau shall require the applicant to establish ability and reasonable financial responsibility to initiate the proposed operations. The bureau shall require the applicant to establish his or her knowledge and ability to engage in business as a household mover by examination. The examination may be written or oral, or in the form of a demonstration of skill, or any combination of these, and any investigation of character, experience, and any tests of technical knowledge and manual skill that the bureau determines to be appropriate may be employed. In any examination, the qualification of the applicant shall be determined by an appraisal made by a member of the bureau's staff. The criteria used by the bureau staff in making the required appraisal to determine whether the applicant has met the qualifications shall be established by the bureau by rule or regulation, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. An applicant who has been determined to be unqualified may establish his or her qualifications through a subsequent examination, but no subsequent examination shall be taken prior to 30 days from the date when the applicant was found to be unqualified. If the staff member determines that the applicant is not qualified and denies the application, the bureau shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written request with the bureau for a hearing on the denial. Upon receipt of a timely filed request, the bureau shall request that the matter be set for a hearing. The hearing 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 shall have all the powers granted therein. If the staff member determines that the applicant is qualified, the bureau may issue a permit without a hearing.

(b) An applicant may qualify in one of the following ways:

(1) If an individual, he or she may qualify by personal examination or by examination of his or her responsible managing employee.

(2) If a copartnership or corporation, or any other type of business organization, it may qualify by examination of the responsible managing officer, an employee who works at least 32 hours per week, or a partner of the applicant firm.

(c) If the individual qualified by examination ceases to be connected with the permitholder, the permitholder shall notify the bureau in writing within 30 days after the cessation. If notice is given, the permit shall remain in force a reasonable length of time in order that another representative of the applicant may be qualified before the bureau. If the permitholder fails to notify the bureau of the cessation within a 30-day period, at the end of that period the permit shall be automatically suspended.

(d) Each applicant for a permit shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for each owner, partner, officer, and director as a prerequisite to the issuance of a permit to operate as a household mover. The fingerprint images and related information shall be submitted 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.

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

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

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

(e) The bureau may require, as a precondition to the issuance of a permit, the procurement of a performance bond sufficient to facilitate the collection of fines, penalties, and restitution related to enforcement actions that can be taken against the applicant.

(f) The bureau may refuse to issue a permit if it is shown that an applicant or an officer, director, partner, or associate of an applicant has committed any act constituting dishonesty or fraud; committed any act that, if committed by a permit holder, would be grounds for a suspension or revocation of the permit; misrepresented any material fact on the application; or, was convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession, except that if the bureau determines that the applicant is otherwise suitable to be issued a permit, and granting the permit would not compromise public safety, the bureau 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 to be issued a permit based on the evidence found through the review.

(g) The bureau shall issue a permit only to those applicants who it finds have demonstrated that they possess sufficient knowledge, ability, integrity, and financial resources and responsibility to perform the service within the scope of their application.

(h) A permit shall not be issued unless it has been shown that the applicant meets one of the following residence requirements:

(1) For an individual, the applicant shall have resided in the State of California for not less than 90 days next preceding the filing of the application.

(2) For a partnership, the partner having the largest percentage interest in the partnership shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the application.

(3) For a corporation, the applicant shall be a domestic corporation or shall be qualified to transact business in the State of California as a foreign corporation at the time of filing the application.

(i) The bureau shall prescribe, amend, and repeal rules in accordance with law for the administration of this section.

(j) If the bureau denies an application, the bureau shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written request with the bureau for a hearing on the denial. Upon receipt of a timely filed request, the bureau shall request that the matter be set for hearing. The hearing 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 shall have all the powers granted therein.

**SEC. 14.** Section 19245 of the Business and Professions Code is amended to read:

**19245.** (a) Except as provided in Section 19237, a household mover in compliance with this chapter has a carrier's lien on used household goods and personal effects to secure payment of the amount specified in subdivision (b) for transportation and additional services ordered by the consignor. A carrier's lien does not attach to food, medicine, or medical devices, items used to treat or assist an individual with a disability, or items used for the care of a minor child.

(b) (1) The amount secured by the carrier's lien is the maximum total dollar amount for the transportation of the household goods and personal effects and any additional services, including any bona fide change order permitted under the rules and regulations administered by the bureau, that is set forth clearly and conspicuously in writing adjacent to the space reserved for the signature of the consignor and that is agreed to by the consignor before any goods or personal effects are moved from their location or any additional services are performed.

(2) The dollar amount for the transportation of household goods and personal effects and additional services shall not be preprinted on any form, shall be just and reasonable, and shall be established in good faith by the household mover based on the specific circumstances of the services to be performed.

(c) Upon tender to the household mover of the amount specified in subdivision (b), the carrier's lien is extinguished, and the household mover shall release all household goods and personal effects to the consignee.

(d) A household mover may enforce the carrier's lien on household goods and personal effects provided in this section except as to any goods that the household mover voluntarily delivers or unjustifiably refuses to deliver. The carrier's lien shall be enforced in the manner provided in this section and Chapter 6 (commencing with Section 9601) of Division 9 of the Commercial Code for the enforcement of a security interest in consumer goods in a consumer transaction. To the extent of any conflict between this section

and Chapter 6 (commencing with Section 9601) of Division 9 of the Commercial Code, this section shall prevail. Every act required in connection with enforcing the carrier's lien shall be performed in good faith and in a commercially reasonable manner.

(e) The household mover shall provide a notification of disposition at least 30 days prior to any disposition to each consignor and consignee by personal delivery, or in the alternative, by first-class and certified mail, postage prepaid and return receipt requested, at the address last known by the household mover and at the destination address, and by electronic mail if an electronic mail address is known to the household mover. If any of the required recipients of notice are married to each other, and according to the household mover's records, reside at the same address, one notice addressed to both shall be sufficient. Within 14 days after a disposition, the household mover shall provide to the consignors any surplus funds from the disposition and an accounting, without charge, of the proceeds of the disposition.

(f) A person having possession or control of household goods or personal effects, who knows, or through the exercise of reasonable care should know, that the household mover has been tendered the amount specified in subdivision (b), shall release the household goods and personal effects to the consignor or consignee, upon the request of the consignor or consignee. If the person fails to release the household goods and personal effects to the consignor or consignee, any peace officer, as defined in subdivision (c) of Section 19237, may take custody of the household goods and personal effects and release them to the consignor or consignee.

(g) This section does not affect any rights, if any, of a household mover to claim additional amounts, on an unsecured basis, or of a consignor or consignee to make or contest any claim, and tender of payment of the amount specified in subdivision (b) is not a waiver of claims by the consignor or consignee.

(h) A person injured by a violation of this section may bring an action for the recovery of the greater of one thousand dollars (\$1,000) or actual damages, injunctive or other equitable relief, reasonable attorney's fees and costs, and exemplary damages of not less than three times the amount of actual damages for a willful violation.

(i) A waiver of this section shall be void and unenforceable.

(j) Notwithstanding any other law, this section exclusively establishes and provides for a carrier's lien of a household mover on used household goods and personal effects to secure payment for transportation and additional services ordered by the consignor.

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

(1) "Consignor" means the person named in the bill of lading as the person from whom the household goods and personal effects have been received for shipment and that person's agent.

(2) "Consignee" means the person named in the bill of lading to whom or to whose order the household mover is required to make delivery as provided in the bill of lading and that person's agent.

(l) A document required by this section may be in an electronic form, if agreed upon by the household mover and the customer.

**SEC. 15.** Section 19250 of the Business and Professions Code is amended to read:

**19250.** With the consent of the bureau, a copy of an insurance policy, certified by the company issuing it to be a true copy of the original policy, or a photostatic copy of the policy, or an abstract of the provisions of the policy, or a certificate of insurance issued by the company issuing the policy, may be filed with the bureau in lieu of the original or a duplicate or counterpart of the policy.

**SEC. 16.** The heading of Article 9 (commencing with Section 19285) of Chapter 3.1 of Division 8 of the Business and Professions Code is amended to read:

**Article 9. Household Movers Uniform Business Permit Fee Act**

**SEC. 17.** The heading of Chapter 5 (commencing with Section 22980) of Division 8.6 of the Business and Professions Code is amended to read:

**CHAPTER 5. Inspections, Prohibitions, and Penalties**

**SEC. 18.** Section 25682 of the Business and Professions Code is amended to read:

**25682.** (a) Beginning July 1, 2021, a licensee that is subject to this article shall not employ or continue to employ any alcohol server without a valid alcohol server certification.

(1) An alcohol server who was employed by the licensee prior to July 1, 2021, shall obtain an alcohol server certification by August 31, 2021.

(2) An alcohol server employed by the licensee on or after July 1, 2021, shall obtain an alcohol server certification within 60 calendar days of employment.

(b) (1) A licensee that is subject to this article shall ensure that each alcohol server it employs has a valid alcohol server certification. The licensee shall maintain records of certifications for inspection, upon request, by the department.

(2) Except for a violation of subdivision (c), it shall be a defense against any action for a violation of this article that the alcohol server was within 60 calendar days of initial employment or, with regard to employees employed prior to July 1, 2021, between July 1, 2021, and August 31, 2021, inclusive.

(c) A nonprofit organization that has obtained a temporary daily on-sale license or a temporary daily off-sale license from the department shall designate a person or persons to receive RBS training prior to the event, and that designated person or persons shall remain onsite for the duration of the event.

**SEC. 19.** Section 26001 of the Business and Professions Code is amended to read:

**26001.** For purposes of this division, the following definitions apply:

(a) "A-license" means a state license issued under this division for cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation.

(b) "A-licensee" means any person holding a license under this division for cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation.

(c) "Applicant" means an owner applying for a state license pursuant to this division.

(d) "Batch" means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

(1) Harvest batch. "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. "Manufactured cannabis batch" means either of the following:

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

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

(e) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(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" 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 division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

(g) "Cannabis accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.

(h) "Cannabis concentrate" means 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 division. 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.

(i) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.

(j) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(k) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this division.

- (l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (m) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
- (n) "Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician's recommendation, or a primary caregiver.
- (o) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.
- (p) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.
- (q) "Director" means the Director of Consumer Affairs.
- (r) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (s) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (t) "Edible cannabis product" means cannabis product 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 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.
- (u) "Fund" means the Cannabis Control Fund established pursuant to Section 26210.
- (v) "Kind" means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (w) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (x) "Labor peace agreement" means an agreement between a licensee and any 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.
- (y) "License" means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.
- (z) "Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.
- (aa) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (ab) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (ac) "Local jurisdiction" means a city, county, or city and county.
- (ad) "Lot" means a batch or a specifically identified portion of a batch.
- (ae) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.
- (af) "M-licensee" means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.
- (ag) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (ah) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or 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 cannabis or cannabis products or labels or relabels its container.

(ai) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

(aj) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ak) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.

(al) "Owner" means any of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

(2) The chief executive officer of a nonprofit or other entity.

(3) A member of the board of directors of a nonprofit.

(4) An individual who will be participating in the direction, control, or management of the person applying for a license.

(am) "Package" means any container or receptacle used for holding cannabis or cannabis products.

(an) "Person" includes any 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 the plural as well as the singular.

(ao) "Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(ap) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(aq) "Primary caregiver" has the same meaning as in Section 11362.7 of the Health and Safety Code.

(ar) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

(as) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

(at) "Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

(2) Licensed by the bureau.

(au) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(av) "Youth center" has the same meaning as in Section 11353.1 of the Health and Safety Code.

**SEC. 20.** Section 26013 of the Business and Professions Code is amended to read:

**26013.** (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) (1) Each licensing authority may adopt emergency regulations to implement this division.

(2) 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 as authorized by this section. Any such readoption shall be limited to one time for each regulation.

(3) 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.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall the regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.

**SEC. 21.** Section 26051 of the Business and Professions Code is amended to read:

**26051.** (a) The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

(b) It shall be unlawful for any person to monopolize, attempt to monopolize, or combine or conspire with any person or persons to monopolize, any part of the trade or commerce related to cannabis. The Attorney General shall have the sole authority to enforce the provisions of this subdivision.

(c) In determining whether to grant, deny, or renew a retail license, microbusiness license, or a license issued under Section 26070.5, the bureau shall consider if an excessive concentration exists in the area where the licensee will operate. For purposes of this section "excessive concentration" applies when either of the following conditions exist:

(1) The ratio of licensees to population in the census tract or census division in which the applicant premises is located exceeds the ratio of licensees to population in the county in which the applicant premises is located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to the population in the census tract, census division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

**SEC. 22.** Section 26055 of the Business and Professions Code is amended to read:

**26055.** (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.

(c) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(d) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

(e) An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction. An applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction shall be presumed to be in compliance with all local ordinances unless the licensing authority is notified otherwise by the local jurisdiction. The licensing authority shall notify the contact person for the local jurisdiction of any applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction.

(f) (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

(2) Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

(3) The bureau shall share the information required by this subdivision with the other licensing authorities.

(g) (1) The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdiction's indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

(2) Prior to issuing a state license under this division for any commercial cannabis activity, if an applicant has not provided adequate proof of compliance with local laws pursuant to subdivision (e):

(A) The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

(B) A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

(C) A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

(D) If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

(E) At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

(F) A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

(3) For purposes of this section, "notification" includes written notification or access by a licensing authority to a local jurisdiction's registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

(h) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

(i) A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

**SEC. 23.** Section 26057 of the Business and Professions Code is amended to read:

**26057.** (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

(3) Failure to provide information required by the licensing authority.

(4) The applicant, owner, 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, owner, 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 or owner, and shall evaluate the suitability of the applicant, owner, 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 violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

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

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

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned 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 unauthorized commercial cannabis activities, has had a license suspended or revoked under this division 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) Any other condition specified in law.

**SEC. 24.** Section 26060 of the Business and Professions Code is amended to read:

**26060.** (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this division. The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage cultivation.

(b) The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of 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.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Chapter 6.5 (commencing with Section 26067). 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 Chapter 6.5 (commencing with Section 26067).

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

(e) A cannabis cultivator shall not use any pesticide that has been banned for use in the state.

(f) The regulations promulgated by the Department of Food and Agriculture under this division shall implement the requirements of subdivision (b) of Section 26060.1.

(g) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed-light cultivation of cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

**SEC. 25.** Section 26060.1 of the Business and Professions Code is amended to read:

**26060.1.** (a) An application for a license for cultivation issued by the Department of Food and Agriculture shall identify the source of water supply as follows:

(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) do 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 the maximum amount to be diverted as follows:

(A) For an application submitted before January 1, 2019, the application shall include a copy of one of the following:

(i) A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(ii) A statement of water diversion and use filed with the State Water Resources Control Board on or before October 31, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.

(iii) A pending application for a permit to appropriate water, filed with the State Water Resources Control Board on or before October 31, 2017.

(iv) Documentation submitted to the State Water Resources Control Board on or before January 1, 2019, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

(v) Documentation submitted to the State Water Resources Control Board on or before October 31, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

(B) For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

(i) A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(ii) A statement of water diversion and use filed with the State Water Resources Control Board that covers the diversion and specifies the amount of water used for cannabis cultivation.

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

(iv) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and in the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

(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) The Department of Food and Agriculture shall include in any license for cultivation all of the following:

(1) Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to: (A) ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

(2) 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. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) A condition that the license shall not be effective until the licensee has demonstrated compliance 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.

(c) 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.

(d) Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

**SEC. 26.** Section 26067 of the Business and Professions Code is amended to read:

**26067.** (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, 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 26069.

(b) (1) The department, in consultation with the California Department of Tax and Fee Administration, 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 variety and quantity or weight of products shipped.

(B) The estimated times of departure and arrival.

(C) The variety and quantity or weight 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 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

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

(B) The department 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. The California Department of Tax and Fee Administration shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

(5) The department shall be authorized to enter into memoranda of understanding with licensing authorities for data sharing purposes, as deemed necessary by the department.

(6) Information received and contained in records kept by the department 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 division 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 division.

**SEC. 27.** Section 26068 of the Business and Professions Code is amended to read:

**26068.** (a) The department, in consultation with the bureau and the California Department of Tax and Fee Administration, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs, and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of cannabis and cannabis products throughout the distribution chain and communicate the information to licensing agencies as required by law.

(c) Any software, database, or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology that is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

**SEC. 28.** Section 26070.5 of the Business and Professions Code is amended to read:

**26070.5.** (a) The bureau shall, by January 1, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees, and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons so long as the local jurisdiction does all of the following:

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities.

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division.

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation.

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) New temporary local licenses shall not be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines that creation of nonprofit licenses under this division is feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines that creation of nonprofit licenses under this division is feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

**SEC. 29.** Section 26110 of the Business and Professions Code is amended to read:

**26110.** (a) Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature cannabis plants and seeds, as provided for in this division.

(b) A licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products.

(c) The distributor shall store, as determined by the bureau, the cannabis batches on the premises of the distributor before testing and continuously until either of the following occurs:

(1) The cannabis batch passes the testing requirements pursuant to this division and is transported to a licensed retailer.

(2) The cannabis batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau or the State Department of Public Health.

(d) The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

(e) Upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

(f) (1) There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

(2) The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

(3) The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Taxation Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

(g) After testing, all cannabis and cannabis products fit for sale may be transported only from the distributor's premises to the premises of a licensed retailer, microbusiness, or nonprofit.

(h) A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers.

(i) A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include, but is not limited to, the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.

(j) This section does 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. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

**SEC. 30.** Section 26152 of the Business and Professions Code is amended to read:

**26152.** A licensee shall not do any of the following:

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

(e) Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

(f) Publish or disseminate advertising or marketing that is attractive to children.

(g) Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

**SEC. 31.** Section 26211 of the Business and Professions Code is amended to read:

**26211.** (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the California Department of Tax and Fee Administration under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the taxes imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) 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 division, and to the California Department of Tax and Fee Administration, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of November 9, 2016, the date this section became operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Cannabis Control Fund that does not exceed thirty million dollars (\$30,000,000); and

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Cannabis Control Fund to support the activities of the bureau, state licensing authorities under this division, and the California Department of Tax and Fee Administration to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of cannabis and cannabis products to persons under 21 years of age, describe the penalties for providing access to cannabis and cannabis products to persons under 21 years of age, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use, the potential harms of using cannabis while pregnant or breastfeeding, and the potential harms of overusing cannabis or cannabis products.

**SEC. 32.** Section 26231 of the Business and Professions Code is amended to read:

**26231.** A corporation that is organized or existing pursuant to any law except Part 12 (commencing with Section 14550) of Division 3 of Title 1 of the Corporations Code may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

**SEC. 33.** Section 846 of the Civil Code is amended to read:

**846.** (a) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, except as provided in this section.

(b) A "recreational purpose," as used in this section, includes activities such as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, private noncommercial aviation activities, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

(c) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby do any of the following:

(1) Extend any assurance that the premises are safe for that purpose.

(2) Constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed.

(3) Assume responsibility for or incur liability for any injury to person or property caused by any act of the person to whom permission has been granted except as provided in this section.

(d) This section does not limit the liability which otherwise exists for any of the following:

(1) Willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity.

(2) Injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same

purpose.

(3) Any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

(e) This section does not create a duty of care or ground of liability for injury to person or property.

**SEC. 34.** Section 945 of the Civil Code is amended to read:

**945.** The provisions, standards, rights, and obligations set forth in this title are binding upon all original purchasers and their successors-in-interest. For purposes of this title, associations and others having the rights set forth in Sections 5980 and 5985 shall be considered to be original purchasers and shall have standing to enforce the provisions, standards, rights, and obligations set forth in this title.

**SEC. 35.** Section 1550.5 of the Civil Code is amended to read:

**1550.5.** (a) The Legislature finds and declares all of the following:

(1) The Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorized the use of marijuana for medical purposes in this state.

(2) The Legislature passed the Medical Cannabis Regulation and Safety Act, formerly Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, to regulate and license medical cannabis in the state.

(3) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorized the consumption of nonmedical marijuana by persons over 21 years of age and provided for the licensure and regulation of certain commercial nonmedical marijuana activities in this state.

(4) The Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code) to consolidate the licensure and regulation of certain commercial activities with respect to medicinal cannabis and nonmedical marijuana, now known as adult-use cannabis.

(b) Notwithstanding any law, including, but not limited to, Sections 1550, 1667, and 1668 and federal law, commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following:

(1) A lawful object of a contract.

(2) Not contrary to, an express provision of law, any policy of express law, or good morals.

(3) Not against public policy.

**SEC. 36.** Section 1798.25 of the Civil Code is amended to read:

**1798.25.** (a) Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (l), (o), or (p) of Section 1798.24. This accounting shall also be required for disclosures made pursuant to subdivision (e) or (f) of Section 1798.24 unless notice of the type of disclosure has been provided pursuant to Sections 1798.9 and 1798.10. The accounting shall also include the name, title, and business address of the person or agency to whom the disclosure was made. For the purpose of an accounting of a disclosure made under subdivision (o) of Section 1798.24, it shall be sufficient for a law enforcement or regulatory agency to record the date of disclosure, the law enforcement or regulatory agency requesting the disclosure, and whether the purpose of the disclosure is for an investigation of unlawful activity under the jurisdiction of the requesting agency, or for licensing, certification, or regulatory purposes by that agency.

(b) Routine disclosures of information pertaining to crimes, offenders, and suspected offenders to law enforcement or regulatory agencies of federal, state, and local government shall be deemed to be disclosures pursuant to subdivision (e) of Section 1798.24 for the purpose of meeting this requirement.

**SEC. 37.** Section 1938 of the Civil Code is amended to read:

**1938.** (a) A commercial property owner or lessor shall state on every lease form or rental agreement executed on or after January 1, 2017, whether or not the subject premises have undergone inspection by a Certified Access Specialist (CASP).

(b) If the subject premises have undergone inspection by a CASp and, to the best of the commercial property owner's or lessor's knowledge, there have been no modifications or alterations completed or commenced between the date of the inspection and the

date of the lease or rental agreement that have impacted the subject premises' compliance with construction-related accessibility standards, the commercial property owner or lessor shall provide, prior to execution of the lease or rental agreement, a copy of any report prepared by the CASp with an agreement from the prospective lessee or tenant that information in the report shall remain confidential, except as necessary for the tenant to complete repairs and corrections of violations of construction-related accessibility standards that the lessee or tenant agrees to make.

(c) Making any repairs or modifications necessary to correct violations of construction-related accessibility standards that are noted in a CASp report is presumed to be the responsibility of the commercial property owner or lessor, unless otherwise mutually agreed upon by the commercial property owner or lessor and the lessee or tenant. The prospective lessee or tenant shall have the opportunity to review any CASp report prior to execution of the lease or rental agreement. If the report is not provided to the prospective lessee or tenant at least 48 hours prior to execution of the lease or rental agreement, the prospective lessee or tenant shall have the right to rescind the lease or rental agreement, based upon the information contained in the report, for 72 hours after execution of the agreement.

(d) If the subject premises have been issued an inspection report by a CASp, as described in paragraph (1) of subdivision (a) of Section 55.53, indicating that it meets applicable standards, as defined in paragraph (4) of subdivision (a) of Section 55.52, the commercial property owner or lessor shall provide a copy of the current disability access inspection certificate and any inspection report to the lessee or tenant not already provided pursuant to subdivision (b) within seven days of the date of the execution of the lease form or rental agreement.

(e) If the subject premises have not been issued a disability access inspection certificate, as described in subdivision (e) of Section 55.53, the commercial property owner or lessor shall state the following on the lease form or rental agreement:

"A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

(f) As used in this section, "commercial property" means property that is offered for rent or lease to persons operating, or intending to operate, a place of public accommodation as defined in Section 202 of Chapter 2 of Part 2 of Title 24 of the California Code of Regulations, or a facility to which the general public is invited, at those premises.

**SEC. 38.** Section 4615 of the Civil Code is amended to read:

**4615.** (a) In a common interest development, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the common interest development or the owners' agent or contractor shall be the basis for the filing of a lien against any other property of another owner in the common interest development unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent is deemed to have been given by the owner of any separate interest in the case of emergency repairs thereto.

(b) Labor performed or services or materials furnished for the common area, if duly authorized by the association, are deemed to be performed or furnished with the express consent of each separate interest owner.

(c) The owner of any separate interest may remove that owner's separate interest from a lien against two or more separate interests or any part thereof by doing either of the following:

(1) Pay to the holder of the lien the fraction of the total sum secured by the lien that is attributable to the owner's separate interest.

(2) Record a lien release bond, pursuant to Section 8424, in an amount equal to 125 percent of the sum secured by the lien that is attributable to the owner's separate interest.

**SEC. 39.** Section 38 of the Code of Civil Procedure is amended to read:

**38.** Unless the provision or context otherwise requires, a reference in a statute to a judicial district means:

(a) As it relates to a court of appeal, the court of appeal district.

(b) As it relates to a superior court, the county.

**SEC. 40.** Section 77 of the Code of Civil Procedure is amended to read:

**77.** (a) In every county there is an appellate division of the superior court consisting of three judges or, when the Chief Justice finds it necessary, four judges.

The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence and quality of each appellate division. Each judge assigned to the appellate division of a superior court shall be a judge of that court, a judge of the superior court of another county, or a judge retired from the superior court or a court of higher jurisdiction in this state.

The Chief Justice shall designate one of the judges of each appellate division as the presiding judge of the division.

(b) In each appellate division, no more than three judges shall participate in a hearing or decision. The presiding judge of the division shall designate the three judges who shall participate.

(c) In addition to their other duties, the judges designated as members of the appellate division of the superior court shall serve for the period specified in the order of designation. Whenever a judge is designated to serve in the appellate division of the superior court of a county other than the county in which that judge was elected or appointed as a superior court judge, or if the judge is retired, in a county other than the county in which the judge resides, the judge shall receive expenses for travel, board, and lodging. If the judge is out of the judge's county overnight or longer, by reason of the designation, that judge shall be paid a per diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for those purposes to justices of the Supreme Court under the rules of the Department of General Services. In addition, a retired judge shall receive for the time so served, amounts equal to that which the judge would have received if the judge had been assigned to the superior court of the county.

(d) The concurrence of two judges of the appellate division of the superior court shall be necessary to render the decision in every case in, and to transact any other business except business that may be done at chambers by the presiding judge of, the division. A judgment of the appellate division in an appeal shall contain a brief statement of the reasons for the judgment. A judgment stating only "affirmed" or "reversed" is insufficient. The presiding judge shall convene the appellate division when necessary. The presiding judge shall also supervise its business and transact any business that may be done at chambers.

(e) The appellate division of the superior court has jurisdiction on appeal in all cases in which an appeal may be taken to the superior court or the appellate division of the superior court as provided by law, except where the appeal is a retrial in the superior court.

(f) The powers of each appellate division shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the appellate division of the superior courts.

(g) The Judicial Council shall promulgate rules, not inconsistent with law, to promote the independence of, and govern the practice and procedure and the disposition of the business of, the appellate division.

(h) Notwithstanding subdivisions (b) and (d), appeals from convictions of traffic infractions may be heard and decided by one judge of the appellate division of the superior court.

**SEC. 41.** Section 116.221 of the Code of Civil Procedure is amended to read:

**116.221.** In addition to the jurisdiction conferred by Section 116.220, the small claims court has jurisdiction in an action brought by a natural person, if the amount of the demand does not exceed ten thousand dollars (\$10,000), except as otherwise prohibited by subdivision (c) of Section 116.220 or subdivision (a) of Section 116.231.

**SEC. 42.** Section 1159 of the Code of Civil Procedure is amended to read:

**1159.** (a) Every person is guilty of a forcible entry who either:

(1) By breaking open doors, windows, or other parts of a house, or by any kind of violence or circumstance of terror enters upon or into any real property.

(2) Who, after entering peaceably upon real property, turns out by force, threats, or menacing conduct, the party in possession.

(b) For purposes of this section, "party in possession" means any person who hires real property and includes a boarder or lodger, except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

**SEC. 43.** Section 1160 of the Code of Civil Procedure is amended to read:

**1160.** (a) Every person is guilty of a forcible detainer who either:

- (1) By force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise.
- (2) Who, in the night-time, or during the absence of the occupant of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, for the period of five days, refuses to surrender the same to such former occupant.

(b) The occupant of real property, within the meaning of this section is one who, within five days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands.

**SEC. 44.** Section 2016.080 of the Code of Civil Procedure is amended to read:

**2016.080.** (a) If an informal resolution is not reached by the parties, as described in Section 2016.040, the court may conduct an informal discovery conference upon request by a party or on the court's own motion for the purpose of discussing discovery matters in dispute between the parties.

(b) If a party requests an informal discovery conference, the party shall file a declaration described in Section 2016.040 with the court. Any party may file a response to a declaration filed pursuant to this subdivision. If a court is in session and does not grant, deny, or schedule the party's request within 10 calendar days after the initial request, the request shall be deemed denied.

(c) (1) If a court grants or orders an informal discovery conference, the court may schedule and hold the conference no later than 30 calendar days after the court granted the request or issued its order, and before the discovery cutoff date.

(2) If an informal discovery conference is granted or ordered, the court may toll the deadline for filing a discovery motion or make any other appropriate discovery order.

(d) If an informal discovery conference is not held within 30 calendar days from the date the court granted the request, the request for an informal discovery conference shall be deemed denied, and any tolling period previously ordered by the court shall continue to apply to that action.

(e) The outcome of an informal discovery conference does not bar a party from filing a discovery motion or prejudice the disposition of a discovery motion.

(f) This section does not prevent the parties from stipulating to the timing of discovery proceedings as described in Section 2024.060.

(g) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2023, deletes or extends that date.

**SEC. 45.** Section 2034.260 of the Code of Civil Procedure is amended to read:

**2034.260.** (a) All parties who have appeared in the action shall exchange information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by serving the information on the other party by any method specified in Section 1011 or 1013, on or before the date of exchange.

(b) The exchange of expert witness information shall include either of the following:

- (1) A list setting forth the name and address of a person whose expert opinion that party expects to offer in evidence at the trial.
- (2) A statement that the party does not presently intend to offer the testimony of an expert witness.

(c) If a witness on the list is an expert as described in subdivision (b) of Section 2034.210, the exchange shall also include or be accompanied by an expert witness declaration signed only by the attorney for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain all of the following:

- (1) A brief narrative statement of the qualifications of each expert.
- (2) A brief narrative statement of the general substance of the testimony that the expert is expected to give.
- (3) A representation that the expert has agreed to testify at the trial.
- (4) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the specific testimony, including an opinion and its basis, that the expert is expected to give at trial.

(5) A statement of the expert's hourly and daily fee for providing deposition testimony and for consulting with the retaining attorney.

**SEC. 46.** Section 2093 of the Code of Civil Procedure is amended to read:

**2093.** (a) A court, judge or clerk of a court, justice, notary public, and officer or person authorized to take testimony in an action or proceeding, or to decide upon evidence, has the power to administer oaths and affirmations.

(b) (1) A shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths and affirmations and may perform the duties of the deposition officer pursuant to Chapter 9 (commencing with Section 2025.010) of Title 4. The certified shorthand reporter is entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(2) This subdivision also applies to depositions taken by telephone or other remote electronic means as specified in Chapter 2 (commencing with Section 2017.010) and Chapter 9 (commencing with Section 2025.010) of Title 4.

(c) (1) A former judge or justice of a court of record in the state who retired or resigned from office may administer oaths and affirmations, if the former judge or justice requests and receives a certification from the Commission on Judicial Performance pursuant to paragraph (2).

(2) The Commission on Judicial Performance shall issue a certification enabling a former judge or justice to administer oaths and affirmations if the following conditions are satisfied:

(A) The former judge or justice was not removed from office; was not censured and barred from receiving an assignment, appointment, or reference of work from any California state court; did not retire or resign from office with an agreement with the commission that the former judge or justice would not receive an assignment, appointment or reference of work from any California state court; and, at the time of the former judge or justice's retirement, resignation, or request for certification, a formal disciplinary proceeding was not pending or was resolved on the merits in the judge or justice's favor after his or her retirement or resignation and before the request for certification.

(B) A medical certification provided to the commission by the former judge or justice pursuant to paragraph (3) establishes one of the following:

(i) The former judge or justice does not have a medical condition that would impair his or her ability to administer oaths or affirmations.

(ii) The former judge or justice has a medical condition that may impair his or her ability to administer oaths and affirmations, but the condition does not impair his or her ability at the present time.

(3) The Commission on Judicial Performance may require an applicant to obtain a medical certification in order to receive or renew a certification to administer oaths and affirmations if, at the time of resignation or retirement, there is evidence in a disability application file or in a disciplinary investigation file of possible cognitive impairment affecting the judge or justice, or if the former judge or justice previously received a two-year certification to administer oaths and affirmations from the commission. The commission shall supply the required forms to an applicant upon request.

(4) If an applicant's medical certification indicates that the applicant has a medical condition that may impair his or her ability to administer oaths and affirmations, but the condition does not impair his or her ability at the time the medical certification is submitted with the application, the Commission on Judicial Performance shall issue a certification to administer oaths and affirmations pursuant to paragraph (2), but the certification is only valid for a period of two years from the date of issuance.

(5) Notwithstanding paragraph (1), a former judge or justice of a court of record who received a certification to administer oaths and affirmations from the Commission on Judicial Performance prior to January 1, 2018, may continue to administer oaths and affirmations until the expiration of the certification, at which time he or she may reapply for certification pursuant to paragraph (2).

(6) The Commission on Judicial Performance may charge a regulatory fee not to exceed fifteen dollars (\$15) for each certification application submitted pursuant to this subdivision to cover its costs, including costs to review a medical certification.

(d) A rule or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance does not prohibit the commission from issuing a certificate as provided for in this section.

(e) The administration of an oath or affirmation pursuant to this section without pay does not violate Section 75060.6 of the Government Code.

**SEC. 47.** Section 1401.5 of the Corporations Code is amended to read:

**1401.5.** (a) A trustee, liquidating agent, responsible officer, or other representative appointed by the court for a corporation subject to an order for relief entered in a case under Chapter 11 (commencing with Section 1101) of Title 11 of the United States Code may sign and verify a certificate of dissolution when the corporation has been completely wound up.

(b) The certificate of dissolution shall state the following:

- (1) The name of the corporation.
- (2) That an order for relief was entered in a case under Chapter 11 (commencing with Section 1101) of Title 11 of the United States Code with respect to the corporation.
- (3) The identification of the court in which the order for relief was entered and the court's file number for the matter.
- (4) That an order confirming a reorganization plan has been entered in that case.
- (5) That the undersigned has been appointed by the court as a trustee, liquidating agent, responsible officer, or other representative of the corporation.
- (6) That the shares of the corporation have been canceled pursuant to the terms of that plan.
- (7) That the assets of the corporation have been distributed pursuant to the terms of that plan.
- (8) That the corporation is dissolved.

**SEC. 48.** Section 12317 of the Corporations Code is amended to read:

**12317.** (a) A worker cooperative may, in its articles or bylaws, establish itself as a capital account cooperative.

(b) The articles or bylaws of a capital account cooperative may authorize assignment of a portion of retained net earnings and net losses to an unallocated capital account. The unallocated capital account in a capital account cooperative shall reflect any paid-in capital and retained net earnings not allocated to individual members. Earnings assigned to the unallocated capital account may be used for any and all corporate purposes, as determined by the board of directors.

(c) The system of member and unallocated capital accounts may be used to determine the redemption price of member shares, capital stock, and written notices of allocation. The articles or bylaws may provide for the capital account cooperative worker cooperative to pay or credit interest on the balance in each member's capital account.

(d) The articles or bylaws of a capital account cooperative may permit the periodic redemption of written notices of allocation and capital stock and shall provide for recall and redemption of membership shares upon termination of membership in the cooperative. However, no redemption may occur that would result in the liability of any director or officer pursuant to Article 3 (commencing with Section 12370) of Chapter 2.

(e) As used in this section, "written notice of allocation" has the same meaning as defined in Section 1388 (b) of the Internal Revenue Code.

**SEC. 49.** Section 35330 of the Education Code is amended to read:

**35330.** (a) The governing board of a school district or the county superintendent of schools of a county may:

- (1) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for pupils enrolled in elementary or secondary schools. A field trip or excursion to and from a foreign country may be permitted to familiarize pupils with the language, history, geography, natural sciences, and other studies relative to the district's course of study for pupils.
- (2) Engage instructors, supervisors, and other personnel to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.
- (3) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of pupils, instructors, supervisors, or other personnel to and from places in the state, another state, the District of Columbia, or a foreign country where those excursions and field trips are being conducted, provided that, when district

equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(4) Provide supervision of pupils involved in field trips or excursions by certificated employees of the district.

(b) (1) A pupil shall not be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for pupils in need.

(2) A group shall not be authorized to take a field trip or excursion authorized by this section if a pupil who is a member of an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

(c) (1) The attendance or participation of a pupil in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from a field trip or excursion shall be limited to the amount of attendance that would have accrued had the pupils not been engaged in the field trip or excursion.

(2) Credited attendance shall not exceed 10 schooldays except in the case of pupils participating in a field trip or excursion in connection with courses of instruction, or school-related educational activities, and that are not social, cultural, athletic, or school band activities.

(d) All persons making the field trip or excursion shall be deemed to have waived all claims against the district, a charter school, or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of pupils taking out-of-state field trips or excursions shall sign a statement waiving all claims.

(e) Transportation allowances shall not be made by the Superintendent for expenses incurred with respect to field trips or excursions that have an out-of-state destination. A school district that transports pupils, teachers, or other employees of the school district in schoolbuses within the state and to destinations within the state, pursuant to the provisions of this section, shall report to the Superintendent on forms prescribed by him or her the total mileage of schoolbuses used in connection with educational excursions. In computing the allowance to a school district for regular transportation there shall be deducted from that allowance an amount equal to the depreciation of schoolbuses used for the transportation in accordance with rules and regulations adopted by the Superintendent.

**SEC. 50.** Section 44010 of the Education Code is amended to read:

**44010.** "Sex offense," as used in Sections 44020, 44237, 44346, 44425, 44436, 44836, and 45123, means any one or more of the offenses listed below:

(a) An offense defined in Section 220, 261, 261.5, 262, or 288.2, subdivision (c) of Section 290, Section 311.2, 313.1, or 647b, or subdivision (a) or (d) of Section 647, of the Penal Code.

(b) An offense defined in former subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision (2) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in those sections was committed before September 15, 1961, to the same extent that an offense committed before that date was a sex offense for the purposes of this section before September 15, 1961.

(c) An offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) An offense defined in former subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and before September 15, 1961.

(e) An offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) An offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if that offense was committed before September 15, 1961, to the same extent that an offense committed before that date was a sex offense for the purposes of this section before September 15, 1961.

(g) An offense defined in Section 286 or 288a of the Penal Code before the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed before the effective date of the amendment.

(h) An attempt to commit any of the offenses specified in this section.

(i) An offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

(j) A conviction for an offense resulting in the requirement to register as a sex offender pursuant to Section 290 of the Penal Code.

(k) Commitment as a mentally disordered sex offender under former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, as repealed by Chapter 928 of the Statutes of 1981.

**SEC. 51.** Section 44225 of the Education Code is amended to read:

**44225.** The commission shall do all of the following:

(a) Establish professional standards, assessments, and examinations for entry and advancement in the education profession. While the Legislature recognizes that the commission will exercise its prerogative to determine those requirements, it is the intent of the Legislature that standards, assessments, and examinations be developed and implemented for the following:

(1) (A) The preliminary teaching credential, to be granted upon possession of a baccalaureate degree from a regionally accredited institution in a subject other than professional education, completion of an accredited program of professional preparation, and either successful passage of an examination or assessment that has been adopted or approved by the commission in the subject or subjects appropriate to the grade level to be taught, to include college-level reading, writing, and mathematics skills, or completion of an accredited program of subject matter preparation and successful passage of the basic skills proficiency test as provided for in Article 4 (commencing with Section 44250). The commission shall uniformly consider the results of the basic skills proficiency test in conjunction with other pertinent information about the qualifications of each candidate for a preliminary credential, and may award the credential on the basis of the overall performance of a candidate as measured by several criteria of professional competence, provided that each candidate meets minimum standards set by the commission on each criterion. Upon application by a regionally accredited institution of higher education, the commission may categorically grant credit to coursework completed in an accredited program of professional preparation, as specified by this paragraph, by undergraduates of that institution, where the commission finds there are adequate assurances of the quality of necessary undergraduate instruction in the liberal arts and in the subject area or areas to be taught.

(B) Notwithstanding subparagraph (A), for multiple subject teaching credentials, the baccalaureate degree may be in the subject of professional education.

(2) The professional teaching credential, to be granted upon successful passage of a state examination or assessment in the subject or subjects appropriate to the grade level to be taught, to include college-level basic reading, writing, and mathematics skills, and completion of a period of beginning teacher support that includes assessments of ability to teach subject matter to pupils, ability to work well with pupils, classroom management, and instructional skills. A candidate who successfully passes the examination or assessment pursuant to paragraph (1) shall be deemed to have passed the state examination or assessment in the subject or subjects to be taught pursuant to this paragraph.

(b) Reduce and streamline the credential system to ensure teacher competence in the subject field or fields, while allowing greater flexibility in staffing local schools. The commission shall award the following types of credentials to applicants whose preparation and competence satisfy its standards:

(1) Basic teaching credentials for teaching in kindergarten, or any of the grades 1 to 12, inclusive, in public schools in the state.

(2) Credentials for teaching adult education classes and vocational education classes.

(3) Credentials for teaching specialties, including, but not necessarily limited to, bilingual education, early childhood education, and special education. The commission may grant credentials to any candidate who concurrently meets the commission's standards of preparation and competence for the preliminary basic teaching credential and the preliminary specialty credential.

(4) Credentials for school services, for positions including, but not limited to, administrators, school counselors, speech-language therapists, audiologists, school psychologists, library media teachers, supervisors of attendance, and school nurses.

The commission may establish standards and requirements for preliminary and professional credentials of each type.

(c) Review and, if necessary, revise the code of ethics for the teaching profession.

(d) Establish standards for the issuance and renewal of credentials, certificates, and permits. In setting standards, the commission shall seek to ensure, through its credentialing of teachers, that public school teachers satisfy all of the following criteria:

(1) Are academically talented.

(2) Are knowledgeable of the subjects to be taught in the classroom.

(3) Are creative and energetic.

(4) Have the human skills to motivate and inspire pupils to achieve their goals.

(5) Have the sensitivity to foster self-esteem in pupils through recognition that each pupil has his or her own goals, talents, and levels of development.

(6) Be willing to relate the educational process and their instructional strategies to meet the needs of pupils.

(7) Are able to work effectively with and motivate pupils from a variety of ethnic, socioeconomic, cultural, academic, and linguistic backgrounds.

(8) Have an understanding of principles and laws related to educational equity, and the equitable practice of the profession of education among all pupils regardless of their ethnicity, race, gender, age, religious background, primary language, or disabling condition.

(e) Determine the scope and authorization of credentials, to ensure competence in teaching and other educational services, and establish sanctions for the misuse of credentials and the misassignment of credentialholders. The commission may grant an added or supplementary authorization to a credentialholder who has met the requirements and standards of the commission for the added or supplementary authorization. The commission shall exempt the holder of a teaching credential obtained prior to January 1, 1974, who adds an authorization by successfully completing a commission-approved subject matter examination, from the requirements of subdivision (e) of Section 44259 and Section 44261.

(f) Collect, compile, and disseminate information regarding exemplary practices in supporting and assessing beginning teachers.

(g) Establish alternative methods for entry into the teaching profession, and into other certificated roles in the schools, by persons in varying circumstances, including persons who have been educated outside of California, provided that each applicant satisfies all of the requirements established by the commission. One alternative method shall be the successful completion of at least two years of classroom instruction under a district intern certificate, pursuant to Article 7.5 (commencing with Section 44325). In establishing alternative methods for entry into the teaching profession, the commission shall develop strategies to encourage classroom aides to become credentialed teachers.

(h) Adopt a framework and general standards for the accreditation of preparation programs for teachers and other certificated educators pursuant to Article 7 (commencing with Section 44320).

(i) Appoint classroom teachers, school administrators, other school services personnel, representatives of the public, and public or private higher education representatives to one or more standing committees, which shall be given authority to recommend to the commission standards relating to examinations, performance assessments, program accreditation, and licensing. The commission shall establish criteria for membership on those committees, and shall determine the terms of committee members. Appointments to standing committees by the commission shall reflect, to the extent feasible, the ethnic and cultural diversity of the California public schools.

(j) Consult with classroom teachers, faculty members from institutions of higher education that maintain accredited programs of professional preparation for teachers, administrators or other school services personnel, and other experts to aid in the development of examinations and assessments, and to study the impact of examinations and assessments on the teaching profession. To increase the fairness of its certification decisions, the commission may uniformly consider the results of tests, subtests, and assessments in conjunction with each other, and in conjunction with other pertinent information about the qualifications of each candidate. The commission may award credentials on the basis of average overall performances by candidates on several criteria of professional competence, provided that each candidate meets minimum standards set by the commission on each criterion.

(k) Adopt standards for all examinations and assessments that shall ensure that all prospective teachers demonstrate an understanding of the history and cultures of the major ethnic populations of this state and of teaching strategies for the acquisition of English language skills by non-English-speaking pupils.

(l) Determine the terms of credentials, certificates, and permits, except that no credential, certificate, or permit shall be valid for more than five years from the date of issuance. This article shall govern the issuance of any credential, certificate, or permit, except as follows:

(1) A credential, certificate, or permit shall remain in force as long as it is valid and continues to be valid under the laws and regulations that were in effect when it was issued.

(2) The commission shall grant teaching credentials pursuant to statutes that were in effect on December 31, 1988, to candidates who, before the effective date of regulations to implement subdivision (a), are in the process of meeting the requirements for teaching credentials that were in effect on December 31, 1988, except that neither enrollment as an undergraduate student nor receipt of a baccalaureate degree from a regionally accredited institution prior to the effective date

of the regulations shall, by themselves, exempt a candidate from the requirements of subdivision (a). Enrollment in a preparation program for teachers prior to the effective date of the regulations shall not exempt a candidate from the requirements of paragraph (2) of subdivision (a), if the preliminary credential of the candidate was granted after the effective date of the regulations.

(m) Review requests from school districts, county offices of education, private schools, and postsecondary institutions for the waiver of one or more of the provisions of this chapter or other provisions governing the preparation or licensing of educators. The commission may grant a waiver upon its finding that professional preparation equivalent to that prescribed under the provision or provisions to be waived will be, or has been, completed by the credential candidate or candidates affected or that a waiver is necessary to accomplish any of the following:

- (1) Give a local educational agency one semester or less to address unanticipated, immediate, short-term shortages of fully qualified educators by assigning a teacher who holds a basic teaching credential to teach outside of his or her credential authorization, with the teacher's consent.
- (2) Provide credential candidates additional time to complete a credential requirement.
- (3) Allow local school districts or schools to implement an education reform or restructuring plan.
- (4) Temporarily exempt from a specified credential requirement small, geographically isolated regions with severely limited ability to develop personnel.
- (5) Provide other temporary exemptions when deemed appropriate by the commission.

No provision in this chapter may be waived under Sections 33050 and 33051, after June 30, 1994, by the state board.

(n) It is the intent of the Legislature that the commission develop models for voluntary use by California colleges and universities that do not have these models in place, to assist in the screening of applications for admission to teacher education programs. The models shall give emphasis to the following qualifications of the applicants: academic talent, knowledge of subjects to be taught, basic academic skills, creativity, experience in working with children and adolescents, ability to motivate and inspire pupils, and willingness to relate education to pupils with a wide variety of cultural, ethnic, and academic backgrounds. The commission may continue to administer the state basic skills proficiency test, in order (1) to utilize the results of this test in awarding preliminary teaching credentials and emergency permits, and (2) to enable colleges and universities to utilize this test in conjunction with other appropriate sources of information in teacher preparation admission decisions. However, it is the intent of the Legislature that applicants for admission to teacher preparation programs shall not be denied admission solely on the basis of state basic skills proficiency test results. The commission may recover the costs of administering and developing the test by charging examinees a fee for taking the test.

(o) It is the intent of the Legislature that the commission encourage colleges and universities to design and implement, by August 1, 1990, concentrated internship programs for persons who have attained a bachelor's degree in the field in which they intend to teach. Those programs would be targeted at subject area shortages, would substitute for conventional training programs, and would include a full summer session of college-level coursework, a one-year internship, or the equivalent, a seminar throughout the internship, and a summer session following the internship. Educator preparation through internship programs shall be subject to Article 10 (commencing with Section 44370).

(p) Grant a field placement certificate to any candidate who has been admitted to an accredited program of professional preparation, and who must complete a supervised practicum in public elementary or secondary schools as a condition for completion of the program. The commission shall establish standards for the issuance of field placement certificates.

(q) Propose appropriate rules and regulations to implement the act which enacts this section.

(r) Adopt subject matter assessments for teaching credentials after developing those assessments jointly with the Superintendent.

**SEC. 52.** Section 44978.2 of the Education Code is amended to read:

**44978.2.** (a) (1) In addition to any other entitlement for leave of absence for illness or injury with pay, a certificated employee hired on or after, or employed on or after, January 1, 2017, who is a former active duty member of the Armed Forces of the United States or a former or current member of the California National Guard or a federal reserve component, with a service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs, shall be entitled to leave of absence for illness or injury with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability.

- (2) Credit for leave of absence for illness or injury granted under this subdivision shall be credited to a qualifying certificated employee on the effective date of the employee's disability rating decision from the United States Department of Veterans

Affairs, or on the first day the qualifying certificated employee begins, or returns to, employment after active duty, whichever is later, and shall remain available for use for the following 12 months of employment.

(3) Notwithstanding paragraph (2), credit for leave of absence for illness or injury granted under this subdivision shall be credited to a certificated employee on the date the employee receives confirmation of submission of his or her disability application to the United States Department of Veterans Affairs. When the certificated employee receives his or her disability rating decision from the United States Department of Veterans Affairs, the employee shall report that information to the employer. If the certificated employee's disability rating decision makes the employee ineligible pursuant to paragraph (1), the employer may change the leave of absence for illness or injury time used before the disability rating decision to an alternative leave balance. If the certificated employee's disability rating decision makes the employee eligible pursuant to paragraph (1), the employee shall be entitled to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for his or her service-connected disability minus the time used before the disability rating decision, for the 12-month period beginning with the confirmation of submission of his or her disability application.

(4) Leave of absence for illness or injury credited pursuant to this subdivision that is not used during the 12-month period shall not be carried over and shall be forfeited.

(5) Submission of satisfactory proof that a leave of absence for illness or injury granted under this subdivision is used for treatment of a service-connected disability may be required pursuant to rules adopted by the governing board of a school district.

(b) A certificated employee, as described in subdivision (a), employed less than five days per week, shall be entitled to that proportion of 10 days' leave of absence for illness or injury granted pursuant to subdivision (a) as the number of days he or she is employed per week bears to five.

(c) This section shall not be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater leave of absence rights to employees than the rights established under this section.

**SEC. 53.** Section 46601 of the Education Code is amended to read:

**46601.** (a) If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(b) If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each school district not later than 30 calendar days before the commencement of instruction in that term in that school district, the governing board of either school district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the school districts to permit that attendance, fails or refuses to enter an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(c) Notifying school districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

(1) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the school district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) (i) The county board of education shall, unless clause (ii) or clause (iii) applies, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(ii) Until July 1, 2023, the county board of education in a class 1 county shall, within 60 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(iii) Until July 1, 2019, the county board of education in a class 2 county shall, within 45 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend in the school district in which the pupil desires to attend is impractical, the county board of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the person who filed the appeal requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of desired attendance.

(D) The definitions of "class 1 county" and "class 2 county" in subdivision (e) of Section 48919.5 apply to this section. If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district in which the pupil desires to attend, the county board of education, within 10 days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board of education in reaching a decision.

(4) If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the school district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both school districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board of education having jurisdiction over the school district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of education of the other county that shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

(5) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, shall not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

**SEC. 54.** Section 48204.4 of the Education Code is amended to read:

**48204.4.** (a) A pupil complies with the residency requirements for school attendance in a school district if he or she is a pupil whose parent or parents were residents of this state and departed California against their will, as defined in subdivision (d), and, if the pupil seeks admission to a school of the school district, shall be admitted by the governing board of the school district regardless of his or her current residency, if that pupil meets both of the following requirements:

(1) The pupil has a parent or guardian who departed California against his or her will, as defined in subdivision (d). The pupil shall provide official documentation evidencing the departure of his or her parent or guardian.

(2) The pupil moved outside of California as a result of his or her parent or guardian departing California against his or her will, as defined in subdivision (d), and the pupil lived in California immediately before moving outside of California. The pupil shall provide information and evidence demonstrating that the pupil was enrolled in a public school in California immediately before moving outside of California.

(b) The parent or guardian of a pupil subject to subdivision (a) may designate an adult to attend school meetings and serve as an emergency contact.

(c) Charges or fees of any kind shall not be required to be paid by a pupil, or by his or her parents or guardian, for admission or attendance in a school of a school district that provides instruction in accord with the requirements of this section.

(d) (1) For purposes of this section, a person has "departed California against his or her will" if any of the following circumstances apply:

(A) The person was in custody of a government agency and was transferred to another state.

(B) The person was subject to a lawful order from a court or government agency that authorized the person's removal from California.

(C) The person was subject to a lawful order pursuant to subparagraph (B) and was permitted to depart California before being removed from California pursuant to the lawful order.

(D) The person was removed or is permitted to depart voluntarily pursuant to the federal Immigration and Nationality Act (8 U.S.C. Sec. 1229c).

(2) A school district may determine additional circumstances that are consistent with the purposes of this section.

**SEC. 55.** Section 51422 of the Education Code is amended to read:

**51422.** Each scoring contractor shall provide the Superintendent with a set of results for each examinee who has taken all or a portion of a high school equivalency test that has been approved by the state board. Each scoring contractor shall forward to the Superintendent the fee established pursuant to Section 51421 for each examinee who has taken the general educational development test.

**SEC. 56.** Section 54444.2 of the Education Code is amended to read:

**54444.2.** (a) The Superintendent of Public Instruction shall take the steps necessary to ensure effective parental involvement throughout the state migrant education program, which shall include, but need not be limited to, the following:

(1) The Superintendent shall adopt rules and regulations requiring each operating agency receiving migrant education funds or services to actively solicit parental involvement in the planning, operation, and evaluation of its programs through the establishment of, and consultation with, a parent advisory council.

(A) The membership of each parent advisory council shall be composed of members who are knowledgeable of the needs of migrant children and shall be elected by the parents of migrant children enrolled in the operating agency's programs. The composition of the council shall be determined by the parents at a general meeting to which all parents of pupils enrolled in the migrant program shall be invited. Parents shall be informed, in a language they understand, that the parents have the sole authority to decide on the composition of the council. All parent candidates for the council shall be nominated by parents; nonparent candidates shall be nominated by the groups they represent: teachers by teachers, administrators by administrators, other school personnel by other school personnel, and pupils by pupils. All other community candidates shall be nominated by the parents. Each parent advisory council shall hold meetings on a regular basis during the operation of the regular program, but not less than six times during the year.

(B) At least two-thirds of the members of each parent advisory council shall be the parents of migrant children. Each parent advisory council shall have the responsibilities listed in subdivision (a) of Section 54444.4.

(2) The Superintendent shall establish a statewide parent advisory council that shall participate in the planning, operation, and evaluation of the state migrant education program. The membership of the statewide parent advisory council shall be composed of members who are knowledgeable of the needs of migrant children and shall be nominated and elected by the parents of migrant children enrolled in the operating agencies. At least two-thirds of the members of the State Parent Advisory Council shall be the parents of migrant children. The state council shall meet a minimum of six times a calendar year to provide input on issues relating to the operation of the program. Special meetings may be called at the discretion of the state director.

(3) (A) (i) The Superintendent also shall sponsor a biennial State Parent Advisory Council Conference. The conference shall be scheduled during the spring.

(ii) The Superintendent may sponsor regional conferences to take the place of the State Parent Advisory Council Conference if the Superintendent determines that regional conferences will increase parent participation.

(B) Every three years, the State Parent Advisory Council shall prepare and submit a report to the Legislature, pursuant to Section 9795 of the Government Code, the state board, the Superintendent, and the Governor regarding the status of the

migrant education program. The report shall be submitted within 120 days from the conclusion of a training program on preparing the report provided by the Superintendent in accordance with paragraph (5).

(C) The report shall include an evaluation of the migrant education program, as required pursuant to paragraph (2), a review of annual needs and a yearend assessment, as required pursuant to paragraph (2) of subdivision (a) of Section 54444.4, and policy recommendations.

(4) The Superintendent and each operating agency shall furnish, without charge, to the statewide and operating agency parent advisory councils and, upon request, to each member, a copy of all applicable state and federal migrant education statutes, rules and regulations, and guidelines. In addition, the Superintendent and each operating agency shall furnish, without charge, to the statewide and operating agency parent advisory councils and, upon request, to each member, copies of all applicable state and federal audits, monitoring reports, and evaluations.

(5) The Superintendent and each operating agency shall establish and implement training programs for members of the statewide and operating agency parent advisory councils to enable them to carry out their responsibilities. Each training program shall be developed in consultation with the parent advisory councils and shall include appropriate training materials in a language understandable to each member. Costs incurred in providing training under this paragraph, including federally authorized expenses associated with the attendance of members at training sessions, shall be funded, to the extent that funds are available, by federal funds allocated to the state, based upon the educational and related health needs of migratory children defined in subdivisions (a) and (b) of Section 54441, and may be supported by funds from the state migrant education program.

(b) Each operating agency that provides services on a statewide basis shall be exempt from the requirement that it create its own parent advisory council, but shall consult the statewide parent advisory council in the planning, operation, and evaluation of its programs.

**SEC. 57.** Section 84750.7 of the Education Code is amended to read:

**84750.7.** (a) Notwithstanding Section 84750.5, the board of governors shall provide the Compton Community College District with revenues, as specified in subdivision (b), if both of the following conditions are met:

(1) Compton College is accredited by an accrediting agency recognized by the United States Department of Education.

(2) The Compton Community College District is under the governing authority of the Board of Trustees of the Compton Community College District.

(b) If the number of full-time equivalent students (FTES) of the community college district decreases from the number in the 2017–18 fiscal year, the board of governors shall provide revenues to the community college district, as follows:

(1) For the first fiscal year Compton College is accredited under the governing authority of the Board of Trustees of the Compton Community College District, an amount not less than the total amount that the community college district would receive if the level of attendance of FTES was the same level of attendance as in the 2017–18 fiscal year.

(2) For the second fiscal year after Compton College is accredited under the governing authority of Compton Community College District Board of Trustees, an amount not less than 95 percent of the total amount that the community college district would receive if the level of attendance of FTES was the same level of attendance as in the 2017–18 fiscal year.

(3) For the third fiscal year after Compton College is accredited under the governing authority of Compton Community College District, an amount not less than 90 percent of the total amount that the community college district would receive if the level of attendance of FTES was the same level of attendance as in the 2017–18 fiscal year.

(4) For the fourth fiscal year after Compton College is accredited under the governing authority of Compton Community College District, an amount not less than 85 percent of the total amount that the community college district would receive if the level of attendance of FTES was the same level of attendance as in the 2017–18 fiscal year.

(c) The amounts calculated pursuant to subdivision (b) shall be adjusted by the chancellor to reflect cost-of-living adjustments, deficits in apportionments, or both, as appropriate for the applicable fiscal years.

(d) Subdivision (b) shall only be used to determine the apportionment funding to be allocated to the Compton Community College District. In computing statewide entitlements to funding based upon the attendance of FTES, the Compton Community College District shall not be credited with more FTES than were actually enrolled and in attendance.

(e) Subdivision (b) shall only be operative for a fiscal year in which the Compton College is in compliance with Section 70902.

(f) It is the intent of the Legislature that any amounts necessary to make the apportionments required pursuant to subdivision (b) be drawn from the state general apportionment revenues for community college districts.

**SEC. 58.** Section 87623 of the Education Code is amended to read:

**87623.** (a) Each academic employee who is subject to accusations of misconduct is entitled to be provided with the general nature of the accusations made against him or her at least two business days before the employee is placed on involuntary paid administrative leave. At least two business days before he or she is placed on involuntary paid administrative leave, the employee shall be notified in writing of the general nature of the allegation or allegations of misconduct upon which the decision to place the employee on involuntary paid administrative leave is based.

(b) The requirements of subdivision (a) do not apply in the event of a serious risk of physical danger or other necessity arising from the specific allegations, and the employee may immediately be placed on involuntary paid administrative leave. The employee shall be provided with, at minimum, the general nature of the accusations made against him or her within five business days of the employee being placed on involuntary paid administrative leave.

(c) Within 90 days of placing an academic employee on involuntary paid administrative leave, the employer should complete its investigation of the accused misconduct and initiate disciplinary proceedings against, or reinstate, the employee. The board of governors may, by regulation, establish a required amount of time in which an employer is expected to comply with this subdivision.

(d) For purposes of this section, "paid administrative leave" means a temporary leave from a job assignment, with pay and benefits intact.

(e) This section does not supersede the rights of labor organizations or employees pursuant to the Educational Employment Relations Act established in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

**SEC. 59.** Section 88912 of the Education Code is amended to read:

**88912.** (a) Commencing with the 2017–18 academic year, each participating community college shall provide a grant award to a student pursuant to subdivision (b). The purpose of the grant award is to provide the student with additional financial aid to help offset his or her total cost of community college attendance.

(b) A student attending a community college may receive a grant award pursuant to this section if the student meets all of the following requirements:

(1) The student has received an award under the Full-Time Student Success Grant program established pursuant to Schedule (1) of Item 6870-102-0001 of the Budget Act of 2016 for each term in which he or she receives an award under this section.

(2) The student is enrolled in a program of study and has completed an education plan identifying courses, sequence of courses, key progress milestones, and other requirements the student must complete to earn an associate degree, career technical education certificate, or other community college certificates, or meet university transfer requirements.

(3) The student is not incarcerated.

(4) The student is not in default on any student loan and has not failed to repay a federal or state student grant when required to do so.

(5) (A) The student maintains a grade point average of at least 2.0 and complies with any one of the following:

(i) Enrolls in 15 or more credit units per semester, or the equivalent number of units per quarter, to be considered on track to obtain an associate degree for transfer or an associate degree, or to otherwise transfer to a four-year university, within two academic years, or within three academic years if a student is required to take basic skills courses by the community college.

(ii) Enrolls in a sufficient number of units per semester, quarter, or summer term, as determined by the community college, to be considered on track to receive a certificate for a career technical education program or other community college certificates within the published length of time, or within the published length of time plus one academic year if a student is required to take basic skills courses by the community college.

(iii) Enrolls in intersession or summer coursework after enrolling in 12 or more credits per the primary semester, or the applicable number of units per quarter, as applicable, to be considered on track to receive an associate degree for transfer or an associate degree, or to otherwise transfer to a four-year university, within two academic years, or within three academic years if a student is required to take basic skills courses by the community college.

(iv) Enrolls in a sufficient number of units per semester, quarterly equivalent, or summer term, as determined by the community college, to be considered on track to receive a baccalaureate degree authorized pursuant to Article 3

(commencing with Section 78040) of Chapter 1 of Part 48 of Division 7 within the published length of time, or within the published length of time plus one academic year if a student is required to take basic skills courses by the community college.

(B) For the purposes of subparagraph (A), credits earned while participating in a dual enrollment program shall count towards the requisite number of units required.

(6) The student earns a sufficient number of credits per award year to be considered on track to complete one of the following:

(A) An associate degree for transfer or an associate degree, or to otherwise transfer to a four-year university, within two academic years, or within three academic years if a student is required to take basic skills courses by the community college.

(B) A career technical education certificate within the published time for the career technical education program, or any other community college certificate within the published length of time for the certificate program, or within the published length of time plus one academic year if a student is required to take basic skills courses by the community college.

(C) A baccalaureate degree authorized pursuant to Article 3 (commencing with Section 78040) of Chapter 1 of Part 48 of Division 7, within the published length of time for the degree, or within the published length of time plus one academic year if a student is required to take basic skills courses by the community college.

(7) The student is a California resident or is exempt from paying nonresident tuition under Section 68130.5 or 76140.

(c) (1) To the extent practicable, a grant award shall be awarded at the same time as a recipient's overall financial aid package.

(2) The grant award shall be two thousand dollars (\$2,000) annually, with a maximum one-thousand-dollar (\$1,000) award per semester, or quarterly equivalent, shall be considered a supplemental grant, and shall not supplant any other grant, fee waiver, or scholarship aid received by the student, including, but not necessarily limited to, federal grants, Cal Grant awards, institutional grants, merit-based scholarships, athletic scholarships, and full-time student success grants.

(3) The grant award shall be based upon the financial need of the applicant, and shall not exceed the calculated financial need for any individual applicant. The minimum level of financial need of applicants shall be determined by the commission pursuant to Section 69432.9.

(4) The grant award identified in paragraph (2) shall be proportionally reduced if the amount of funding appropriated in the annual Budget Act for this purpose is insufficient to fully fund the total number of students awarded a grant.

(d) Each participating community college shall administer the grant award pursuant to the requirements of this section.

(e) This section shall not be operative in a fiscal year unless funding has been provided for this section for that fiscal year in the annual Budget Act or another statute.

**SEC. 60.** Section 10 of the Elections Code is amended to read:

**10.** (a) The Secretary of State is the chief elections officer of the state, and has the powers and duties specified in this code and Section 12172.5 of the Government Code.

(b) (1) The Secretary of State shall make reasonable efforts to do all of the following:

(A) Promote voter registration to eligible voters.

(B) Encourage eligible voters to vote.

(C) Promote preregistration to eligible citizens.

(D) Promote civic learning and engagement to prepare students and new citizens to register to vote and to vote.

(2) In undertaking these efforts, the Secretary of State shall prioritize communities that have been historically underrepresented in voter registration or voting.

**SEC. 61.** Section 9067 of the Elections Code is amended to read:

**9067.** (a) If more than one argument for, or more than one argument against, a measure is filed within the time prescribed, the Secretary of State shall select one of the arguments for printing in the state voter information guide. In selecting the argument the Secretary of State shall give preference and priority in the order named to the arguments of the following:

(1) In the case of a measure submitted by the Legislature, Members of the Legislature.

(2) In the case of an initiative or referendum measure, the proponent of the measure.

(3) Bona fide associations of citizens.

(4) Individual voters.

(b) In order to enable the Secretary of State to determine whether it qualifies as a bona fide association of citizens, an organization or association submitting an argument for or against a measure shall submit with its argument a copy of one of the following:

(1) Its articles of incorporation, articles of association, partnership documents, bylaws, or similar documents.

(2) Letterhead containing the name of the organization and its principal officers.

(3) If the organization or association is a primarily formed committee established to support or oppose the measure, its statement of organization filed pursuant to Section 84101 of the Government Code.

(c) In selecting an argument from among bona fide associations of citizens, the Secretary of State shall not consider the type of documentation submitted pursuant to subdivision (b) or the form of the association.

**SEC. 62.** Section 9111 of the Elections Code is amended to read:

**9111.** (a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9118, the board of supervisors may refer the proposed initiative measure to a county agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the board of supervisors requests to be in the report.

(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

**SEC. 63.** Section 9287 of the Elections Code is amended to read:

**9287.** (a) If more than one argument for or more than one argument against any city measure is submitted to the city elections official within the time prescribed, he or she shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument, the city elections official shall give preference and priority, in the order named, to the arguments of the following:

(1) The legislative body, or member or members of the legislative body authorized by that body.

(2) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(3) Bona fide associations of citizens.

(4) Individual voters who are eligible to vote on the measure.

(b) In order to enable the city elections official to determine whether it qualifies as a bona fide association of citizens, an organization or association submitting an argument for or against a city measure shall submit with its argument a copy of one of the following:

(1) Its articles of incorporation, articles of association, partnership documents, bylaws, or similar documents.

(2) Letterhead containing the name of the organization and its principal officers.

(3) If the organization or association is a primarily formed committee established to support or oppose the measure, its statement of organization filed pursuant to Section 84101 of the Government Code.

(c) In selecting an argument from among bona fide associations of citizens, the city elections official shall not consider the type of documentation submitted pursuant to subdivision (b) or the form of the association.

**SEC. 64.** Section 9310 of the Elections Code is amended to read:

**9310.** (a) If the initiative petition is signed by voters not less in number than 10 percent of the voters in the district, if the total number of registered voters is less than 500,000, or not less in number than 5 percent of the voters in the district, if the total number of registered voters is 500,000 or more, the district board shall do either of the following:

(1) Adopt the ordinance, without alteration, either at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(2) Submit the ordinance, without alteration, to the voters pursuant to Section 1405.

(b) The number of registered voters referred to in subdivision (a) shall be calculated as of the time of the last report of registration by the county elections official to the Secretary of State made before publication or posting of the notice of intention to circulate the initiative petition.

**SEC. 65.** Section 9503 of the Elections Code is amended to read:

**9503.** (a) If more than one argument for or more than one argument against any school measure is submitted to the person conducting the election within the time prescribed, the person conducting the election shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the arguments, the person conducting the election shall give preference and priority, in the order named, to the arguments of the following:

(1) The governing board of the district or a member or members of the board.

(2) The individual voter, or bona fide associations of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(3) Bona fide associations of citizens.

(4) Individual voters who are eligible to vote on the measure.

(b) In order to enable the person conducting the election to determine whether it qualifies as a bona fide association of citizens, an organization or association submitting an argument for or against a school measure shall submit with its argument a copy of one of the following:

(1) Its articles of incorporation, articles of association, partnership documents, bylaws, or similar documents.

(2) Letterhead containing the name of the organization and its principal officers.

(3) If the organization or association is a primarily formed committee established to support or oppose the measure, its statement of organization filed pursuant to Section 84101 of the Government Code.

(c) In selecting an argument from among bona fide associations of citizens, the person conducting the election shall not consider the type of documentation submitted pursuant to subdivision (b) or the form of the association.

**SEC. 66.** Section 14228 of the Elections Code is amended and renumbered to read:

**14428.** (a) Notwithstanding Section 14420, in elections conducted using vote centers, at the end of each voting day, the precinct board shall remove the voted ballots from the ballot container and deliver them to the central receiving center pursuant to Section 14422.

(b) The precinct board shall certify to the election official the number of ballots cast at the vote center on the roster, as well as the number of ballots voted. If there is any discrepancy between the numbers, the discrepancy shall be noted with an explanation of the difference and signed by all members of the precinct board.

(c) The precinct board shall record on forms the information needed for the reconciliation of the ballots required by Section 14405.

(d) For vote centers using tabulating equipment, the precinct board shall record the number of ballots cast on each voting device and securely seal the device to prevent additional ballots from being cast until the next day of voting. The precinct board shall record all seals used for this procedure on a log for each vote center.

**SEC. 67.** Section 21551 of the Elections Code is amended to read:

**21551.** (a) A commission member shall apply this chapter in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.

(b) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(c) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action.

(d) (1) The commission shall not retain a consultant who would not be qualified as an applicant pursuant to paragraph (4) of subdivision (c) of Section 21550.

(2) For purposes of this subdivision, "consultant" means a person, whether or not compensated, retained to advise the commission or a commission member regarding any aspect of the redistricting process.

(e) Each commission member shall be a designated employee for purposes of the Conflict of Interest Code adopted by the County of San Diego pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code.

**SEC. 68.** Section 22681 of the Financial Code is amended to read:

**22681.** A program administrator shall establish and maintain a training program for PACE solicitor agents, which is acceptable to the commissioner.

(a) A program administrator shall require each PACE solicitor agent to complete an introductory training that addresses the topics listed in subdivision (b) as part of the program administrator's enrollment process for PACE solicitor agents. The introductory training shall require that the PACE solicitor agent pass a test that measures the PACE solicitor agent's knowledge and comprehension of the training material. The introductory training shall not be subject to any minimum duration requirements.

(b) In addition to the introductory training, a program administrator shall require that each PACE solicitor agent complete six hours of education provided by the program administrator within three months of completing the program administrator's enrollment process. The training shall include the following topics:

(1) PACE programs and assessment contracts.

(2) PACE disclosures.

(3) Ethics.

(4) Fraud prevention.

(5) Consumer protection.

(6) Nondiscrimination.

(7) Senior financial abuse.

**SEC. 69.** Section 22686 of the Financial Code is amended to read:

**22686.** A program administrator shall not approve an assessment contract for funding and recordation by a public agency unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment.

Notwithstanding Section 22696, this section shall become operative on April 1, 2018.

**SEC. 70.** Section 22687 of the Financial Code is amended to read:

**22687.** (a) A program administrator shall determine, before a public agency funds and records the assessment contract, that the property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment based on the property owner income, assets, and current debt obligations. The determination process shall be based on the following factors:

(1) The property owner shall submit on their application their monthly income and their monthly housing expenses.

(2) Housing expenses shall include all mortgage principal and interest payments, insurance, property taxes, mortgage guaranty insurance, and other preexisting fees and assessments on the property. Household income shall include the income of the mortgagor on the subject property and may include the income of any persons age 18 or older who are on title to the property. For any person whose income is considered, their debt obligations shall also be considered pursuant to the provisions of this section. There is no requirement to consider more income than is necessary, nor to verify assets if verified income is sufficient to determine the ability to pay the annual payment obligations.

(3) Debt obligations in accordance with subdivision (c).

(4) In evaluating the income, assets and current debt obligations of the property owner, the equity of the property that will secure the assessment shall not be considered.

(5) Pursuant to Section 5913 of the Streets and Highways Code, the program administrator shall ask the homeowner open-ended questions during the confirm terms call, to confirm the income provided on the application and to identify the sources of their income.

(b) (1) The program administrator shall determine and consider the current or reasonably expected income or assets of the property owner that the program administrator relies on in order to determine a property owner's ability to pay the PACE assessment annual payment obligations using reasonably reliable third-party records of the property owner's income or assets. The program administrator may use automated verification provided the source of that verification is specific to the income of the property owner and not based on predictive or estimation methodologies, and has been determined sufficient for such verification purposes by a federal mortgage lending authority or regulator. Examples of records the program administrator may use to verify the property owner's income or assets include:

(A) A Pay stub showing the most recent 30-day pay period or financial institution records showing regular deposits consistent with reported income for the most recent 60 days.

(B) Copies of most recent tax returns the property owner filed with the Internal Revenue Service or the Franchise Tax Board.

(C) Copies of the most recent Internal Revenue Service Form W-2 (Wage and Tax Statement), or other similar Internal Revenue Service forms that are used for reporting wages or tax withholding.

(D) Payroll statements, including the Department of Defense Leave and Earnings Statement (LES).

(E) Financial institution records, such as bank statements or investment account statements reflecting the value of particular assets.

(F) Records from the property owner's employer or a third party that obtained income information from the employer.

(G) Records from a federal, state, or local government agency stating the property owner's income from benefits or entitlements. Income from benefits paid by a government entity shall not include any benefits for which the recipient must satisfy a means test or any cash equivalent non-monetary benefits, such as food stamps.

(2) Income shall not be derived from temporary sources of income, illiquid assets, or proceeds derived from the equity from the subject property.

(c) A program administrator shall consider the monthly debt obligations of the property owner to determine a property owner's ability to pay the annual payment PACE assessment obligations using reasonably reliable third-party records, including one or more consumer credit reports from agencies that meet the requirements of Section 1681a(p) of Title 15 of the United States Code. Program administrators shall use at least a two-file Merged Credit Report (MCR) or a Residential Mortgage Credit Report (RMCR). For purposes of this subdivision, monthly debt obligations include, but are not limited to, the following:

(1) All secured and unsecured debt.

(2) Alimony.

(3) Child support.

(4) Monthly housing expenses. If property tax and insurance obligations are not included in a property owner's escrow, a program administrator shall use reasonably reliable methods to determine these obligations.

(d) In calculating the ability of the property owner to pay the annual payment obligations, the program administrator shall determine that the property owner's income is sufficient to meet:

(1) The PACE payment, including all interest and fees.

(2) Any mortgage payments, as defined by the higher of the borrowers self-reported housing payment or housing expenses determined in accordance with paragraph (1) and (2) of subdivision (a).

(3) All existing debts and obligations as identified in subdivision (c).

(4) Sufficient residual income to meet basic household living expenses, defined as expected expenses which may be variable based on circumstances and consumption patterns of the household. A program administrator may make reasonable estimation of basic living expenses based on the number of persons in the household. Examples of basic living expenses include, but are not limited to, categories such as food and other necessary household consumables; transportation costs to work or school (fuel, auto insurance and maintenance, public transit, etc.); and utilities expenses for telecommunication, water, sewage, electricity, and gas.

(e) In the case of emergency or immediate necessity, the requirements of paragraph (1) of subdivision (b) may be waived, in accordance with the requirements of Section 5940 of the Streets and Highway Code, for the funding and recordation of a PACE assessment to finance a heating, ventilation, and air conditioning (HVAC) system, boiler, or other system whose primary function is temperature regulation in a home if all the following are met:

(1) The program administrator first attempted to use an automated means of verification as described in paragraph (1) of subdivision (b).

(2) If the program administrator was unable to verify the property owner's income pursuant to paragraph (1) of subdivision (b), pursuant to Section 5913 of the Streets and Highways Code, the program administrator shall ask the property owner open-ended questions during the oral confirmation to identify their income and the sources of their income. The program administrator shall comply with the requirements of subdivision (a), paragraph (2) of subdivision (b), and subdivisions (c) and (d).

(3) The funding is limited to the emergency or immediate necessity improvement and any required improvements directly necessary to the installation and safe operation of the improvement.

(4) Any efficiency improvement funded is eligible for PACE financing.

(5) The property owner executes a waiver of their right to cancel pursuant to subdivision (d) of Section 5940 of the Streets and Highways Code, and confirms, pursuant to Section 5913 of the Streets and Highways Code, the emergency or immediate necessity of the improvement.

(6) The amount of the assessment contract does not exceed fifteen thousand dollars (\$15,000) or a monthly equivalent payment on the PACE assessment of one hundred twenty-five dollars (\$125), as adjusted by any annual increase in the California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code, whichever is greater.

(f) The program administrator shall report annually all PACE assessments that were funded and recorded pursuant to subdivision (e) in a form acceptable to the commissioner.

(g) If there is a difference between the determination of the property owner's ability to pay the annual PACE obligations and the actual amount financed for the property owner, and the property owner is obligated on the underlying home improvement contract, the program administrator shall be responsible for that difference. This subdivision does not apply in a case of intentional misrepresentation by the property owner.

(h) Notwithstanding Section 22696, this section shall become operative on April 1, 2018.

**SEC. 71.** Section 2080.1 of the Fish and Game Code is amended to read:

**2080.1.** (a) Notwithstanding any other provision of this chapter, or Chapter 10 (commencing with Section 1900) or Chapter 11 (commencing with Section 1925) of Division 2, but subject to subdivision (c), if any person obtains from the United States Secretary of the Interior or the United States Secretary of Commerce an incidental take statement pursuant to Section 1536 of

Title 16 of the United States Code or an incidental take permit pursuant to Section 1539 of Title 16 of the United States Code that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 1533 of Title 16 of the United States Code and that is an endangered species, threatened species, or a candidate species pursuant to this chapter, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the incidental take statement or incidental take permit, if that person does both of the following:

(1) Notifies the director in writing that the person has received an incidental take statement or an incidental take permit issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(2) Includes in the notice to the director a copy of the incidental take statement or incidental take permit.

(b) Upon receipt of the notice specified in paragraph (1) of subdivision (a), the director shall immediately have published in the General Public Interest section of the California Regulatory Notice Register the receipt of that notice.

(c) Within 30 days after the director has received the notice described in subdivision (a) that an incidental take statement or an incidental take permit has been issued pursuant to the federal Endangered Species Act of 1973, the director shall determine whether the incidental take statement or incidental take permit is consistent with this chapter. If the director determines within that 30-day period, based upon substantial evidence, that the incidental take statement or incidental take permit is not consistent with this chapter, then the taking of that species may only be authorized pursuant to this chapter.

(d) The director shall immediately publish the determination pursuant to subdivision (c) in the General Public Interest section of the California Regulatory Notice Register.

(e) Unless deleted or extended by a later enacted statute that is chaptered before the date this section is repealed, this section shall remain in effect only until, and is repealed on, the effective date of an amendment to Section 1536 or 1539 of Title 16 of the United States Code that alters the requirements for issuing an incidental take statement or an incidental take permit, as applicable.

**SEC. 72.** Section 224 of the Food and Agricultural Code is amended to read:

**224.** Moneys transferred by the Controller to the Department of Food and Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended by the Secretary of Food and Agriculture as follows:

(a) Of the amount transferred each fiscal year, nine million dollars (\$9,000,000) is hereby appropriated to the Department of Food and Agriculture for payment to the counties for pesticide use enforcement programs supervised by the Director of Pesticide Regulation. Reimbursement shall be apportioned to the counties in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for pesticide use enforcement programs, as determined by the director, or with the collective agreement of the agricultural commissioners, disbursement to counties for a current fiscal year according to criteria developed in work plans, or any combination of reimbursement and disbursement as agreed upon by the director and the agricultural commissioners. The amount to be transferred to any county for a fiscal year may be increased or decreased by the director to compensate for incorrect previous transfers to that county, or adjusted based on evaluations of annual county Pesticide Enforcement Work Plans conducted by the Department of Pesticide Regulation.

(b) Of the amount transferred each fiscal year, two hundred fifty thousand dollars (\$250,000) is hereby appropriated to the Department of Food and Agriculture for state and county liaison activities and for departmental expenses directly related to administration of this section.

(c) Of the amount transferred each fiscal year, one million five hundred thousand dollars (\$1,500,000) is hereby appropriated to the Department of Food and Agriculture for divisional and departmental overhead charges to the Department of Food and Agriculture.

(d) Of the amount transferred each fiscal year in excess of the amount transferred in the 2006–07 fiscal year, 7 percent is hereby appropriated to the Department of Food and Agriculture for full disbursement to the California Agricultural Commissioners and Sealers Association, as specified in Section 2003, and individual counties. The funds dispersed to individual counties, pursuant to subdivision (g), shall be in a proportion to offset expenses associated with programs, personnel, and materials that ensure the uniform application of state agricultural policy or administer programs supervised by the secretary.

(e) Notwithstanding any other law, of the amount transferred each fiscal year, three million dollars (\$3,000,000) is hereby appropriated for distribution to counties in a manner prescribed by the secretary for pest detection or trapping programs. These funds are intended to supplement funds available for pest detection or trapping in the annual Budget Act. As a condition of receiving these funds, counties shall not reduce their level of support from any other funds for pest detection or trapping programs. If a county declines to participate in a pest detection or trapping program, or fails to conduct the program to the state's

satisfaction, the secretary shall reduce, by the amount that would otherwise be allocated to the county, funds available pursuant to this subdivision and any state allocations from the annual Budget Act. Those forfeited funds are hereby appropriated to the Department of Food and Agriculture for purposes of operating the pest detection or trapping programs in those counties.

(f) (1) Of the amount transferred each fiscal year, three million dollars (\$3,000,000) is hereby appropriated to the Department of Food and Agriculture to be used for emergency detection, investigation, or eradication of agricultural plant or animal pests or diseases during the fiscal year, upon approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of these funds shall be carried over to the next fiscal year, or at the discretion of the secretary, may be used for planning and research involving detection, investigation, eradication, and methods of quarantine compliance for agricultural plant or animal pests or diseases.

(2) The Department of Food and Agriculture shall develop policies, in consultation with the agricultural commissioners and in compliance with any requirements of the annual Budget Act, to guide the ongoing use of these funds.

(g) The total amount transferred during each fiscal year less the amounts provided in subdivisions (a) to (f), inclusive, is hereby appropriated to be paid to the counties for agricultural programs authorized by this code that are supervised by the Department of Food and Agriculture and administered by agricultural commissioners. Reimbursement shall be apportioned to the counties in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for agricultural programs, as determined by the secretary, or with the collective agreement of the agricultural commissioners, disbursement to counties according to criteria developed in work plans for a current fiscal year, or any combination of reimbursement and disbursement as agreed upon by the secretary and the agricultural commissioners. The amount to be transferred to any county for a fiscal year may be increased or decreased by the secretary to provide that, insofar as those transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than that county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5 of the Revenue and Taxation Code, as determined by the secretary, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or decreased by the secretary to compensate for incorrect previous transfers to that county, and to account for any failure to meet the criteria listed in Section 224.5.

**SEC. 73.** Section 4051 of the Food and Agricultural Code is amended to read:

**4051.** (a) An association may do any of the following:

(1) Contract, in accordance with all of the following:

(A) The written policies and procedures for contracting that are developed and maintained by the board of directors of the association in accordance with this section.

(B) All applicable state laws governing contracts, except as follows:

(i) A grant or contract entered into by an association for goods is not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(ii) A grant or contract entered into by an association is not subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code.

(C) If the estimated total cost of any construction project or similar work carried out under this section exceeds twenty-five thousand dollars (\$25,000), the association shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. The association is subject to all applicable provisions of the Public Contract Code.

(D) An association may elect to become subject to the provisions of the Uniform Public Construction Cost Accounting Act (Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code) and the Small Business Procurement and Contract Act (Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code), but exempt from the reporting requirements noted in subdivision (f) of Section 14838.1 of the Government Code.

(2) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(3) Conduct or contract for programs, and contract for the purchase or lease of goods that are necessary to effectuate the purposes of this chapter, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(4) Establish and maintain a bank checking account or other financial institution account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds received by the association. All

funds maintained in an account authorized by this paragraph shall be used in accordance with Section 4001.

(5) Approve the annual budget of the association and establish a program for paying vendors who contract with the association.

(6) Contract with any county or county fair association for holding a fair jointly with the county or county fair association. The joint fair is a district fair of the association.

(7) Make or adopt all necessary orders, rules, or regulations for governing the activities of the association. Notwithstanding paragraph (14), any orders, rules, or regulations adopted by the board are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For informational purposes only, however, any order, rule, or regulation adopted by the board may be transmitted to the Office of Administrative Law for filing with the Secretary of State pursuant to Section 11343 of the Government Code.

(8) Operate a payroll system for paying employees, and a system for accounting for vacation and sick leave credits of employees.

(9) Delegate to the officers and employees of the association the exercise of powers vested in the board, as the board may deem desirable, for the orderly management and operation of the association.

(10) With the approval of the Department of General Services, purchase, acquire, hold, sell, or exchange, or convey any interest in real property. Any acquisition of land or other real property is subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(11) With the approval of the Department of General Services, make permanent improvements upon publicly owned real property adjacent to, or near the vicinity of, the real property of the association when the improvements materially benefit the property of the association pursuant to Section 11011 of the Government Code.

(12) With the approval of the Department of General Services, lease for the use of its real property, or any portion of that property, to any person or public body for whatever purpose as may be approved by the board. This purpose may include, but not be limited to, the construction and maintenance of housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, pursuant to a lease of not more than 55 years.

(13) Use, manage, or operate any of its property jointly or in connection with any lessee or sublessee, for any purpose approved by the board.

(14) With the approval of the Department of General Services, pledge any revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind, pursuant to terms and conditions approved by the board. The revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind pledged by the association or its assignees constitute a lien or security interest that immediately attaches to the property pledged, and is effective, binding, and enforceable against the association, its successors, purchasers of the property pledged, creditors, and all others asserting rights therein, to the extent set forth, and in accordance with, the terms and conditions of the pledge, irrespective of whether those persons have notice of the pledge and without the need for physical delivery, recordation, filing, or further action.

(15) With the approval of the secretary, enter into a joint powers agreement pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code).

(b) In developing the written policies and procedures for contracting, the board shall incorporate the following to apply to contracts or procurement by the association:

(1) To ensure the fullest competition, the board shall adopt and publish competitive bidding procedures for the award of a procurement or contract involving an expenditure of more than one hundred thousand dollars (\$100,000). The competitive bidding procedures shall include, but not be limited to, requirements for submission of bids and accompanying documentation, guidelines for the use of requests for proposals, invitations to bid, or other methods of bidding, and a bid protest procedure. The general manager shall determine whether the goods or services subject to this paragraph are available through existing contracts or price schedules of the Department of General Services. The Legislature finds and declares that fairs are a valuable community resource and recognizes that local businesses and local communities make valuable contributions to fairs that include direct and indirect support of fair programs. The Legislature further finds and declares that local businesses often provide opportunity purchases to local fairs that, for similar things available through the state purchasing program, may be purchased locally at a price equivalent to or less than that available through the state purchasing program. As used in this subdivision, opportunity purchases means purchases made locally, either individually or cooperatively, at a price equal to or less than the price available through the state purchasing program on or off state contract.

(2) The contracting standards, procedures, and rules contained in this subdivision shall also apply with respect to any subcontract involving an expenditure of more than one hundred thousand dollars (\$100,000). The board shall establish, as part of the bidding procedures for general contracts, subcontracting guidelines that implement this requirement.

(3) With the approval of the Department of General Services, pledge any and all revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind, pursuant to terms and conditions approved by the board. Any issuance of bonds, contracts entered into, debts incurred, settlements, judgments, or liens under this section or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall not directly, indirectly, or contingently obligate the state or any political subdivision of the state to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. The bond shall contain on its face a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."

(4) This section does not apply to Article 1 (commencing with Section 4101) of Chapter 6 of Part 3.

(c) Notwithstanding any other law, an association shall adopt a fiscal review policy as follows:

(1) An association with an annual budget exceeding five million dollars (\$5,000,000) shall conduct an annual audit by an independent certified public accountant or certified public accountancy firm selected by the board.

(2) (A) An association with an annual budget of less than five million dollars (\$5,000,000) shall have its books and accounts examined and reviewed annually and audited once every three years by an independent certified public accountant or certified public accountancy firm selected by the board.

(B) Solely for the 50th District Agricultural Association, which has entered into a joint powers agreement pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code) to manage the responsibilities of the association, the joint powers agency shall be the entity responsible for ensuring that the annual examinations and reviews and the audits required by this paragraph are conducted. If the joint powers agency performs separate audits of the association and the joint powers agency, the joint powers agency shall submit both audits to the department in the manner prescribed in this chapter.

(d) Notwithstanding subdivision (c), the department may require an audit to be conducted before the times specified in paragraphs (1) and (2) of subdivision (c) if the department or the state deems the audit is necessary.

**SEC. 74.** Section 11792 of the Food and Agricultural Code is amended to read:

**11792.** It is also unlawful for any person that is subject to this division to do any of the following:

(a) Make any false or fraudulent record or report.

(b) Operate in any county without first having registered with the commissioner.

(c) Operate equipment with incompetent or unqualified persons in charge of the equipment.

(d) Make any false or fraudulent statement, record, or report or use any fraud or misrepresentation in connection with meeting any license requirement found in this division.

(e) Cheat on or subvert a licensing examination. As used in this subdivision, "subvert" includes, but is not limited to, the unauthorized possession, reproduction, or distribution of any portion of the licensing examination.

(f) Fail to comply with the provisions of Chapter 3 (commencing with Section 14001) of Division 7.

**SEC. 75.** Section 14649 of the Food and Agricultural Code is amended to read:

**14649.** (a) It is unlawful for the owner of a plant, crop, or commodity to knowingly treat or apply to that plant, crop, or commodity, or cause that plant, crop, or commodity to be treated or applied, with a fertilizer that was stolen or otherwise acquired by illegal means.

(b) The owner of a crop, who is found by a court to have violated this section, in addition to any other penalties imposed by a court, is subject to a fine of ten thousand dollars (\$10,000) plus an amount equal to one-half the value of the crop on which the illegally obtained fertilizer was applied.

(c) For purposes of this section, "one-half the value of the crop" means one-half the market value of the crop that was actually treated with the illegally obtained fertilizer as determined by the actual sale of the crop or, if the crop is not actually sold, as

determined by the secretary based on an average of the typical market value for such a crop sold in the normal channels of trade in the year in which the crop was produced and in the preceding two years.

(d) Moneys received as a result of fines and penalties imposed pursuant to this section shall be divided and distributed as follows:

(1) Fifty percent to the county in which the case was brought to court or in which a court-approved settlement of the matter was negotiated.

(2) Twenty-five percent to the office of the county agricultural commissioner.

(3) Twenty-five percent to the department.

**SEC. 76.** Section 35016 of the Food and Agricultural Code is amended to read:

**35016.** (a) Except as provided in subdivision (b), any hotel, restaurant, food facility, boardinghouse, hospital, or other concern or agency that manufactures a product of milk for the use of, or purchase by, any patron, guest, patient, or employee shall obtain a milk products plant license.

(b) (1) A hotel, restaurant, food facility, boardinghouse, hospital, or other concern or agency that manufactures hard frozen or semifrozen dairy products, or hard frozen or semifrozen nondairy desserts, for the use of, or purchase by, any patron, guest, patient, or employee shall obtain a limited frozen manufacturing permit from the secretary.

(2) The permit may be issued only after the secretary determines that the facility is suitable for manufacturing those products.

(3) A permit issued pursuant to this subdivision may be renewed annually, if the facility is found by the secretary, based on an onsite evaluation, to be in compliance with the conditions specified in subdivision (c).

(c) A hotel, restaurant, food facility, boardinghouse, hospital, or other concern or agency issued a limited frozen manufacturing permit pursuant to this section shall meet all of the following standards:

(1) The hard frozen and semifrozen products manufactured shall only be sold directly to purchasers on the premises of the permitted facility for the purpose of consumption. A hard frozen or semifrozen product manufactured pursuant to the limited frozen manufacturing permit shall not be sold for wholesale or resale.

(2) All dairy ingredients used in the manufacture of hard frozen and semifrozen products shall have been prepasteurized at a licensed milk products plant. The receiving, processing, use, or handling of raw dairy ingredients is not permitted in a facility issued a limited frozen manufacturing permit.

(3) Adequate facilities, consistent with recognized good manufacturing practices for the manufacture of hard frozen and semifrozen dairy products, as determined by the secretary, shall be provided as a condition of the limited frozen manufacturing permit. The facilities shall include, but not be limited to, adequate utensil and container washing, sanitization and storage, and sufficient sanitary work areas, including handwashing facilities, dedicated to the manufacture of hard frozen and semifrozen dairy products or hard frozen and semifrozen nondairy desserts. Sanitation standards consistent with good manufacturing and handling practices for retail food establishments in conformance with Part 117 (commencing with Section 117.1) of Title 21 of the Code of Federal Regulations shall be utilized by the secretary as a condition for issuance and renewal of the limited frozen manufacturing permit.

(4) The hotel, restaurant, boardinghouse, hospital, or other concern or agency shall not manufacture more than 7,500 gallons of hard frozen or semifrozen dairy products and hard frozen and semifrozen nondairy desserts during any year. Records documenting the volume of production of these hard frozen and semifrozen products manufactured during the preceding 12-month period shall be maintained at a facility issued a limited frozen manufacturing permit and shall be available for inspection by the secretary.

(5) Hard frozen dairy products or nondairy frozen desserts manufactured at a facility issued a limited frozen manufacturing permit may be packaged exclusively for sale on the premises to patrons and guests. Packaging of frozen or semifrozen products for purposes of wholesale, resale, or for sale off the premises of the facility is prohibited. All packaged products shall be labeled with the manufacturer's name, address, and limited frozen manufacturing permit number and comply with all applicable food labeling provisions of state and federal law.

**SEC. 77.** Section 35221 of the Food and Agricultural Code is amended to read:

**35221.** (a) Every person that is engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, ice milk, sherbet, or any similar frozen product, of manufacturing, freezing, or processing imitation ice cream, imitation ice

milk, or any similar frozen product, or of processing any other dairy product for which a license is required, shall pay the following fees:

(1) For a license for all frozen milk products and all imitation frozen milk products, one hundred dollars (\$100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars (\$100), plus one dollar (\$1) for each additional 10,000 gallons or fraction of 10,000 gallons over and above 20,000 gallons that were manufactured during the preceding year, ending December 31.

(2) For a semifrozen (soft-serve) milk products plant license issued to persons making application under Section 33704, three hundred twenty-five dollars (\$325) for the calendar year for which the semifrozen (soft-serve) milk products plant license is issued. The fee for the renewal of this license is three hundred twenty-five dollars (\$325).

(3) For a limited frozen manufacturing permit issued to a hotel, restaurant, food facility, boardinghouse, hospital, or other concern or agency pursuant to Section 35016, six hundred dollars (\$600) for the initial permit. The fee for the annual renewal of this permit shall be six hundred dollars (\$600).

(4) For a person, except a hospital or sanitarium, that is engaged in the business of manufacturing any diabetic or dietetic frozen milk product or mix, one hundred dollars (\$100) for the calendar year for which a diabetic or dietetic frozen milk products license is issued. The fee for the renewal of this license is one hundred dollars (\$100).

(5) For any other product for which a license is required, one hundred dollars (\$100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars (\$100), plus one dollar (\$1) for each additional 10,000 pounds or fraction of 10,000 pounds over and above the first 100,000 pounds of milk fat that was purchased or received during the preceding year, ending December 31.

(b) The license and permit fees required by this section shall be prorated on a quarterly basis for any licensee or permittee that commences operations after the first quarter in any calendar year, regardless of whether or not the milk products plant was licensed or permitted during the preceding calendar year.

(c) Notwithstanding the license and permit fees specified in this section, the secretary may increase the fees by an amount no more than 3 percent per annum, not to exceed the reasonable costs of services provided.

**SEC. 78.** Section 54291 of the Food and Agricultural Code is amended to read:

**54291.** A corporation that is organized or existing pursuant to any law, except Part 12 (commencing with Section 14550) of Division 3 of Title 1 of the Corporations Code, may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, entitled to the benefit of, and subject to, this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

**SEC. 79.** Section 79163 of the Food and Agricultural Code is amended to read:

**79163.** A vacancy on the commission occurring by the failure of a person elected to the commission as a member or alternate to continue in his or her position due to a change in status making him or her ineligible to serve or due to death, removal, or resignation shall be filled by another eligible person for the unexpired portion of the term by a majority vote of the remaining members of the commission. The person shall fulfill all the qualifications set forth in this article as required for the person whose office he or she is to occupy.

**SEC. 80.** Section 79187 of the Food and Agricultural Code is amended to read:

**79187.** When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for violating this chapter, including, but not limited to, failing to pay assessments or to collect assessments, shall also include identical liability upon each director or officer of the corporation.

**SEC. 81.** Section 79851 of the Food and Agricultural Code is amended to read:

**79851.** The powers and duties of the commission board of directors include, but are not limited to, all of the following:

(a) Adopt and from time to time alter, rescind, modify, and amend bylaws, rules, and orders, and recommend regulations in accordance with Article 9 (commencing with Section 79901) for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, order, or recommended regulation. These actions are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or determined reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) Appoint its own officers from the members of the commission board of directors, including a chairperson, one or more vice chairpersons, and any other officers as it determines necessary. The officers have the powers and duties delegated to them by the commission board of directors.

(d) Employ a person to serve at the pleasure of the commission as president and chief executive officer, and other personnel, including legal counsel, necessary to carry out this chapter. The commission may retain a management firm or staff from any board, commission, or committee of this state to perform the functions prescribed by this subdivision under control of the commission board of directors. If a person subject to this subdivision engages in conduct that the secretary determines to be in violation of this chapter, or is not in the public interest, the secretary shall notify the commission of the conduct and request that corrective, and if appropriate, disciplinary action, be taken by the commission board of directors. If the commission board of directors fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person subject to this subdivision.

(e) Fix the compensation for all employees.

(f) Appoint committees composed of both members and nonmembers of the commission board of directors to advise in carrying out this chapter.

(g) Establish offices and incur expenses, invest funds, enter into contracts and agreements, and create liabilities and borrow funds in advance of receipt of assessments as determined necessary for the proper administration and enforcement of this chapter and the performance of its duties.

(h) Keep accurate books, records, and accounts of all of its dealings, which is subject to an annual audit by an auditing firm selected by the commission board of directors with the concurrence of the secretary. The audit shall be made a part of an annual report to all producers of olives and handlers subject to this chapter, and, notwithstanding Sections 9795 and 10231.5 of the Government Code, copies of the audit shall be submitted to the Legislature and the department. In addition, the secretary may, as he or she determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(i) Present facts to, and negotiate with, state, federal, and foreign agencies on matters that affect the purposes of this chapter.

(j) Make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements determined to be necessary for the purposes specified in this chapter.

(k) Conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from research or elsewhere for purposes described in this chapter. In connection with the research, accept contributions of, or to match, private, state, or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(l) Collect information and publish and distribute to producers a bulletin or other communication for dissemination of information relating to this chapter.

(m) Establish an assessment rate to defray operating costs.

(n) Establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the secretary before the disbursement of funds, except for disbursements made pursuant to subdivision (e).

(o) Submit to the secretary for his or her concurrence, an annual statement of contemplated activities authorized under this chapter.

(p) Investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

(q) Engage in activities and administer any program authorized in Article 9 (commencing with Section 79901).

(r) Prescribe the form and manner by which proponents and opponents of the commission may contact producers so long as all expenses associated with the contacts are paid in advance.

(s) Engage in communications with the public regarding activities authorized in this section.

**SEC. 82.** Section 915 of the Government Code is amended to read:

**915.** (a) A claim, any amendment thereto, or an application to the public entity for leave to present a late claim shall be presented to a local public entity by either of the following means:

(1) Delivering it to the clerk, secretary, or auditor thereof.

(2) Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office.

(b) Except as provided in subdivisions (c) and (d), a claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the state by either of the following means:

(1) Delivering it to an office of the Department of General Services.

(2) Mailing it to the Department of General Services at its principal office.

(c) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to a judicial branch entity in accordance with the following means:

(1) Delivering or mailing it to the court executive officer, if against a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of that court.

(2) Delivering or mailing it to the Clerk/Executive Officer of the Court of Appeal, if against a court of appeals or a judge of that court.

(3) Delivering or mailing it to the Clerk/Executive Officer of the Supreme Court, if against the Supreme Court or a judge of that court.

(4) Delivering or mailing it to the Administrative Director of the Judicial Council, if against the Judicial Council or the Administrative Office of the Courts.

(d) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the Trustees of the California State University by delivering or mailing it to the Office of Risk Management at the Office of the Chancellor of the California State University.

(e) A claim, amendment or application shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if, within the time prescribed for presentation thereof, any of the following apply:

(1) It is actually received by the clerk, secretary, auditor, or board of the local public entity.

(2) It is actually received at an office of the Department of General Services.

(3) If against the California State University, it is actually received by the Trustees of the California State University.

(4) If against a judicial branch entity or judge, it is actually received by the court executive officer, court clerk/administrator, court clerk, or secretariat of the judicial branch entity.

(f) A claim, amendment or application shall be deemed to have been presented in compliance with this section to a public agency as defined in Section 53050 if it is delivered or mailed within the time prescribed for presentation thereof in conformity with the information contained in the statement in the Roster of Public Agencies pertaining to that public agency which is on file at the time the claim, amendment or application is delivered or mailed. As used in this subdivision, "statement in the Roster of Public Agencies" means the statement or amended statement in the Roster of Public Agencies in the office of the Secretary of State or in the office of the county clerk of any county in which the statement or amended statement is on file.

**SEC. 83.** Section 946.6 of the Government Code is amended to read:

**946.6.** (a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from Section 945.4. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates. If the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court. If an action on the cause of action to which the claim relates would be a limited civil case, a proceeding pursuant to this section is a limited civil case.

(b) The petition shall show each of the following:

(1) That application was made to the board under Section 911.4 and was denied or deemed denied.

(2) The reason for failure to present the claim within the time limit specified in Section 911.2.

(3) The information required by Section 910.

The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

(2) The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time.

(4) The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the Attorney General, if the respondent is the state. If the petition involves a claim arising out of alleged actions or inactions of the Department of Transportation, service of the petition and notice of the hearing shall be made on the Attorney General or the Director of Transportation. Service on the Attorney General may be accomplished at any of the Attorney General's offices in Los Angeles, Sacramento, San Diego, or San Francisco. Service on the Director of Transportation may be accomplished only at the Department of Transportation's headquarters office in Sacramento. If the petition involves a claim arising out of alleged actions or inactions of a judicial branch entity, service of the petition and notice of the hearing shall be made in accordance with the following:

(1) If the petition involves a claim arising out of alleged actions or inactions of a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of the court, service shall be made on the court executive officer.

(2) If the petition involves a claim arising out of alleged actions or inactions of a court of appeal or a judge thereof, service shall be made on the Clerk/Executive Officer of the Court of Appeal.

(3) If the petition involves a claim arising out of alleged actions or inactions of the Supreme Court or a judge thereof, service shall be made on the Clerk/Executive Officer of the Supreme Court.

(4) If the petition involves a claim arising out of alleged actions or inactions of the Judicial Council or the Administrative Office of the Courts, service shall be made on the Administrative Director of the Judicial Council.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from Section 945.4, suit on the cause of action to which the claim relates shall be filed with the court within 30 days thereafter.

**SEC. 84.** Section 955.9 of the Government Code is amended to read:

**955.9.** In actions on claims against a judicial branch entity, service of summons shall be made on:

(a) The court executive officer, in actions on claims against a superior court or a judge thereof.

(b) The Clerk/Executive Officer of the Court of Appeal, in actions on claims against a court of appeal or a judge thereof.

(c) The Clerk/Executive Officer of the Supreme Court, in actions on claims against the Supreme Court or a judge thereof.

(d) The Administrative Director of the Judicial Council, in actions on claims against the Judicial Council or the Administrative Office of the Courts.

**SEC. 85.** Section 1001 of the Government Code is amended to read:

**1001.** The civil executive officers are: a Governor; a private secretary and an executive secretary for the Governor; a Lieutenant Governor; a Secretary of State; a Deputy Secretary of State; a Keeper of Archives of State for the Secretary of State; a bookkeeper for the Secretary of State; three recording clerks for the Secretary of State; a Controller; a Deputy Controller; a bookkeeper for the Controller; five clerks for the Controller; a Treasurer; a Deputy Treasurer; a bookkeeper for the Treasurer; a clerk for six months in each year for the Treasurer; an Attorney General and all assistant and deputy attorneys general; a Superintendent of Public Instruction; one clerk for the Superintendent of Public Instruction; an Insurance Commissioner; a deputy for the Insurance Commissioner; four port wardens for the Port of San Francisco; a port warden for each port of entry except San Francisco; five State Harbor Commissioners for San Francisco Harbor; six pilots for each harbor where there is no board of pilot commissioners; three members of the Board of Pilot Commissioners for Humboldt Bay and Bar; 13 members of the State Board of Food and Agriculture; four members of the State Board of Equalization; a clerk of the State Board of Equalization; three members of the State Board of Education; a librarian for the Supreme Court Library and the Chief Assistant Clerk/Executive Officer and the Assistant Clerks/Executive Officers of the Supreme Court; five directors for the state hospital at Napa; the manager, assistant manager, chief counsel, and division chiefs for the State Compensation Insurance Fund; the head of each department and all chiefs of divisions, deputies, and secretaries of a department; such other officers as fill offices created by or under the authority of charters or laws for the government of counties and cities or of the health, school, election, road, or revenue laws; or persons serving on boards or commissions created under the laws of the state or established under the State Constitution.

**SEC. 86.** The heading of Chapter 11 (commencing with Section 3550) of Division 4 of Title 1 of the Government Code is amended to read:

**CHAPTER 11. Prohibition on Public Employers Deterring or Discouraging Union Membership**

**SEC. 87.** Section 6253.2 of the Government Code is amended to read:

**6253.2.** (a) Notwithstanding any other provision of this chapter to the contrary, information regarding persons paid by the state to provide in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or personal care services pursuant to Section 14132.95 of the Welfare and Institutions Code, is not subject to public disclosure pursuant to this chapter, except as provided in subdivision (b).

(b) Copies of names, addresses, home telephone numbers, personal cellular telephone numbers, and personal email addresses of persons described in subdivision (a) shall be made available, upon request, to an exclusive bargaining agent and to any labor organization seeking representation rights pursuant to subdivision (c) of Section 12301.6, or Section 12302.5, of the Welfare and Institutions Code or Chapter 10 (commencing with Section 3500) of Division 4 of Title 1. This information shall not be used by the receiving entity for any purpose other than the employee organizing, representation, and assistance activities of the labor organization.

(c) This section applies solely to individuals who provide services under the In-Home Supportive Services Program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) or the Personal Care Services Program pursuant to Section 14132.95 of the Welfare and Institutions Code.

(d) This section does not alter the rights of parties under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4) or any other labor relations law.

**SEC. 88.** Section 6253.4 of the Government Code is amended to read:

**6253.4.** (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

(b) The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

- (1) Department of Motor Vehicles
- (2) Department of Consumer Affairs
- (3) Transportation Agency
- (4) Bureau of Real Estate
- (5) Department of Corrections and Rehabilitation
- (6) Division of Juvenile Justice

- (7) Department of Justice
- (8) Department of Insurance
- (9) Department of Business Oversight
- (10) Department of Managed Health Care
- (11) Secretary of State
- (12) State Air Resources Board
- (13) Department of Water Resources
- (14) Department of Parks and Recreation
- (15) San Francisco Bay Conservation and Development Commission
- (16) State Board of Equalization
- (17) State Department of Health Care Services
- (18) Employment Development Department
- (19) State Department of Public Health
- (20) State Department of Social Services
- (21) State Department of State Hospitals
- (22) State Department of Developmental Services
- (23) Public Employees' Retirement System
- (24) Teachers' Retirement Board
- (25) Department of Industrial Relations
- (26) Department of General Services
- (27) Department of Veterans Affairs
- (28) Public Utilities Commission
- (29) California Coastal Commission
- (30) State Water Resources Control Board
- (31) San Francisco Bay Area Rapid Transit District
- (32) All regional water quality control boards
- (33) Los Angeles County Air Pollution Control District
- (34) Bay Area Air Pollution Control District
- (35) Golden Gate Bridge, Highway and Transportation District
- (36) Department of Toxic Substances Control
- (37) Office of Environmental Health Hazard Assessment

(c) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

**SEC. 89.** Section 6254.3 of the Government Code is amended to read:

**6254.3.** (a) The home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of all employees of a public agency shall not be deemed to be public records and shall not be open to public inspection, except that

disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another public agency when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and any phone numbers on file with the employer of employees performing law enforcement-related functions, and the birth date of any employee, shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to public agencies and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) (1) Unless used by the employee to conduct public business, or necessary to identify a person in an otherwise disclosable communication, the personal email addresses of all employees of a public agency shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as specified in paragraphs (1) to (4), inclusive, of subdivision (a).

(2) This subdivision shall not be construed to limit the public's right to access the content of an employee's personal email that is used to conduct public business, as decided by the California Supreme Court in *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608.

(c) Upon written request of any employee, a public agency shall not disclose the employee's home address, home telephone number, personal cellular telephone number, personal email address, or birth date pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address, home telephone number, and personal cellular telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

**SEC. 90.** Section 6268 of the Government Code is amended to read:

**6268.** (a) Public records, as defined in Section 6252, in the custody or control of the Governor when he or she leaves office, either voluntarily or involuntarily, shall, as soon as is practical, be transferred to the State Archives. Notwithstanding any other law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings he or she may transfer that have not already been made accessible to the public. With respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years. Subject to any restrictions permitted by this section, the Secretary of State, as custodian of the State Archives, shall make all those public records and other writings available to the public as otherwise provided for in this chapter.

(b) Except as to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition, this section does not apply to public records or other writings in the direct custody or control of any Governor who held office between 1974 and 1988 at the time of leaving office, except to the extent that that Governor may voluntarily transfer those records or other writings to the State Archives.

(c) Notwithstanding any other law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California provided that with respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later. Records or writings shall not be transferred pursuant to this paragraph unless the institution receiving them agrees to maintain, and does maintain, the materials according to commonly accepted archival standards. Public records transferred shall not be destroyed by that institution without first receiving the written approval of the Secretary of State, as custodian of the State Archives, who may require that the records be placed in the State Archives rather than being destroyed. An institution receiving those records or writings shall allow the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to make available to the public, any and all public records, and inventories, indices, or finding aids relating to those records that the institution makes available to the public generally. Copies of those records in the custody of the State Archives shall be given the same legal effect as is given to the originals.

**SEC. 91.** Section 8670.32 of the Government Code is amended to read:

**8670.32.** (a) A spill management team (SMT) may apply to the administrator for a certification of that SMT's response capabilities. The administrator shall establish criteria for certifying SMTs based on an SMT's capacity to respond to spills and manage spills effectively pursuant to this section.

(b) Upon receiving a completed application for certification, the administrator shall review the application and certify the SMT based on the SMT's satisfactory compliance with criteria established by the administrator.

(c) The administrator shall not issue a certification until the applicant SMT's performance has been observed during an actual spill or exercise in California. The administrator may call an exercise to test the resources and response capabilities of the SMT before approval of the application.

(d) A certification issued pursuant to this section shall be valid for three years unless suspended or revoked. The administrator shall review the certification of each certified SMT at least once every three years. The administrator shall not renew a certification unless the SMT meets criteria established by the administrator.

(e) (1) The administrator shall periodically require a certified SMT to demonstrate that the SMT can meet the applicable provisions of an oil spill contingency plan in which the SMT is listed. These demonstrations may be achieved through inspections, announced and unannounced exercises, or by any other means. SMT exercises, to the extent practical, should be combined with other relevant exercises.

(2) The administrator may modify, suspend, or revoke an SMT's certification if the SMT does not satisfactorily complete an exercise or does not have a satisfactory performance at a spill.

(3) The administrator may determine that satisfactory performance at a spill during the three-year certification period may be substituted in lieu of an exercise.

(f) Each certified SMT shall provide reasonable notice to the administrator of each exercise in which the SMT intends to participate, and the administrator may attend the exercise.

(g) The costs incurred by an SMT to comply with this section and the regulations adopted pursuant to this section, including exercises called by the administrator, shall be the responsibility of the SMT. All local, state, and federal agency costs incurred in conjunction with participation in an exercise shall be borne by each respective agency.

(h) (1) A certification issued pursuant to this section pertains only to the SMT that applied for and received that certification, and the certification is not transferable, assignable, or assumable. A certification does not constitute a possessory interest in real or personal property.

(2) If there is a change in ownership or control of the SMT, the certification of that SMT is null and void and the SMT shall file a new application for a certification pursuant to this section.

(3) For purposes of this subdivision, a "change in ownership or control" includes, but is not limited to, a change in corporate status, or a transfer of ownership that changes the majority control of voting within the entity.

(i) The administrator may charge a reasonable fee to process an application for, or renewal of, a certification.

(j) The administrator shall adopt regulations to implement this section as appropriate. At a minimum, the regulations shall address all of the following:

(1) Criteria for certification of SMTs, including, but not limited to, all of the following:

(A) The geographic regions of the state where the SMT intends to provide spill management services.

(B) The number of people and equipment that the SMT would provide to support managing the response to a spill.

(C) Timeframes for having personnel on scene.

(2) Criteria for successful completion of SMT objectives at an exercise.

(3) Training.

(4) The process for applying for a certification, and for suspension, revocation, appeal, or other modification of a certification.

**SEC. 92.** Section 9147.7 of the Government Code is amended to read:

**9147.7.** (a) For the purpose of this section, "eligible agency" means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.

(b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic

basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.

(c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 before the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:

- (1) The purpose and necessity of the agency.
- (2) A description of the agency budget, priorities, and job descriptions of employees of the agency.
- (3) Programs and projects under the direction of the agency.
- (4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.
- (5) Recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

(d) The committee shall take public testimony and evaluate the eligible agency before the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. An eligible agency shall not be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.

(e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve during that committee member's term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the committee.

(f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.

(g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.

(h) This section does not apply to the Bureau of Cannabis Control.

**SEC. 93.** Section 9605 of the Government Code is amended to read:

**9605.** (a) If a section or part of a statute is amended, it is not to be considered as having been repealed and reenacted in the amended form. The portions that are not altered are to be considered as having been the law from the time when those provisions were enacted; the new provisions are to be considered as having been enacted at the time of the amendment; and the omitted portions are to be considered as having been repealed at the time of the amendment. When the same section or part of a statute is amended by two or more acts enacted at the same session, any portion of an earlier one of those successive acts that is omitted from a subsequent act shall be deemed to have been omitted deliberately and any portion of a statute omitted by an earlier act that is restored in a subsequent act shall be deemed to have been restored deliberately.

(b) In the absence of any express provision to the contrary in the statute that is enacted last, it shall be conclusively presumed that the statute which is enacted last is intended to prevail over statutes that are enacted earlier at the same session and, in the absence of any express provision to the contrary in the statute that has a higher chapter number, it shall be presumed that a statute that has a higher chapter number was intended by the Legislature to prevail over a statute that is enacted at the same session but has a lower chapter number.

(c) For the purposes of this section, every statute of an even-numbered year of a two-year regular session of the Legislature is deemed to bear a higher chapter number than any statute enacted in the odd-numbered year of that session.

**SEC. 94.** Section 12012.81 of the Government Code is amended to read:

**12012.81.** (a) The tribal-state gaming compact entered into in accordance with the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Wilton Rancheria, executed on July 19, 2017, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the tribal-state gaming compact ratified by this section.

(B) The execution of the tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the Department of Transportation, or other state agency, negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the tribal-state gaming compact ratified by this section.

(2) Except as expressly provided in this section, this subdivision does not exempt a city, county, or city and county, or the Department of Transportation, or any state agency or local jurisdiction, from the requirements of the California Environmental Quality Act.

**SEC. 95.** Section 12012.91 of the Government Code, as added by Section 1 of Chapter 464 of the Statutes of 2017, is amended and renumbered to read:

**12012.92.** (a) The tribal-state gaming compact entered into in accordance with the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Dry Creek Rancheria Band of Pomo Indians, executed on August 18, 2017, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the tribal-state gaming compact ratified by this section.

(B) The execution of the tribal-state gaming compact ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the Department of Transportation, or other state agency, negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the tribal-state gaming compact ratified by this section.

(2) Except as expressly provided in this section, this subdivision does not exempt a city, county, or city and county, or the Department of Transportation, or any state agency or local jurisdiction, from the requirements of the California Environmental Quality Act.

**SEC. 96.** Section 12583 of the Government Code is amended to read:

**12583.** The filing, registration, and reporting provisions of this article do not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to any religious corporation sole or other religious corporation or organization that holds property for religious purposes, or to any officer, director, or trustee thereof who holds property for like purposes, to a cemetery corporation regulated under Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any statement pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation or unincorporated association organized and operated primarily as a religious organization, educational institution, hospital, or a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code.

**SEC. 97.** Section 12993 of the Government Code is amended to read:

**12993.** (a) The provisions of this part shall be construed liberally for the accomplishment of the purposes of this part. This part does not repeal any of the provisions of civil rights law or of any other law of this state relating to discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital

status, sex, age, or sexual orientation, unless those provisions provide less protection to the enumerated classes of persons covered under this part.

(b) The provisions in in this part relating to discrimination in employment on account of sex or medical condition do not affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided the terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

(c) While it is the intention of the Legislature to occupy the field of regulation of discrimination in employment and housing encompassed by the provisions of this part, exclusive of all other laws banning discrimination in employment and housing by any city, city and county, county, or other political subdivision of the state, this part does not limit or restrict the application of Section 51 of the Civil Code.

**SEC. 98.** Section 14670.35 of the Government Code is amended to read:

**14670.35.** (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Developmental Services, may let in the best interests of the state and at a price which will permit the development of affordable housing for persons eligible under this section, to any person, including but not limited to any corporation or partnership, real property not exceeding 60 acres located within the grounds of Fairview State Hospital, for the purpose of developing affordable housing, which may include manufactured housing, for the employees of Fairview State Hospital, and for a period not to exceed 55 years. The lease authorized by this section shall be nonassignable, except it may be assignable, subject to approval by the Department of General Services and the State Department of Developmental Services, to a partnership in which the lessee has an interest of not less than 50 percent or to an individual, corporation or partnership which has a net worth of at least three million dollars (\$3,000,000) and has experience substantially equal to that of the lessee in building, marketing, managing, and leasing residences of the type to be built under the lease, and is subject to review every five years by the Director of General Services, to assure the state that the original purposes of the lease are being carried out.

(b) In the event of default by the lessee under the terms of the lease, the state shall take all necessary steps to cure the default but in no event shall state general funds, except funds collected pursuant to Section 15863, be expended to operate the property.

(c) (1) The housing developed pursuant to this section shall be available for the employees of Fairview State Hospital and to provide transitional housing for patient-clients of Fairview State Hospital returning to the community; provided that the housing available for transitional housing for patient-clients shall not be in excess of 10 percent of the units developed. In the event that vacancies occur in the units which cannot be filled by either employees of Fairview State Hospital or transitional patient-clients, then the units may be made available to persons who are in need of affordable housing and whose incomes do not exceed 80 percent of the median income for Orange County as that income may be defined from time to time by the United States Department of Housing and Urban Development. If any vacancies exist in excess of 60 days after lessee has conducted a marketing program in cooperation with the Orange County Housing Authority and approved by the State Department of Developmental Services, and during the 60 days the vacancies were made available to employees, transitional patient-clients, and persons whose incomes do not exceed 80 percent of the median income for Orange County, then, upon approval by the State Department of Developmental Services, the vacant units may be made available to any persons employed in the City of Costa Mesa.

(2) The housing developed for employees of Fairview State Hospital or transitional patient-clients pursuant to paragraph (1) shall first be available for individuals with developmental disabilities receiving services from a regional center pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, and then to individuals in need of affordable housing as described in this subdivision.

(d) The Director of General Services, with the approval of the State Department of Developmental Services, shall, no later than July 1, 2017, amend the existing lease established pursuant to subdivision (a) to include a portion of the Fairview Developmental Center property in the area of Mark Lane for the purpose of developing additional housing units to serve individuals with developmental disabilities. The amendment shall provide that the additional acreage is subject to the existing lease conditions. The amendment shall require that a management agreement between the lessee and the State Department of Developmental Services be established, including terms and conditions determined by the Director of Developmental Services to be in the best interests of the state. The management agreement shall allow the State Department of Developmental Services to determine the type of housing units to be developed and whether housing is developed by renovation of existing units or construction of new units suitable for providing services to individuals with developmental disabilities. The management agreement shall also give the State Department of Developmental Services the right of first refusal for all housing established pursuant to this section on the subject acreage.

(e) The Legislature finds and declares that the provision of decent and affordable housing for state employees and transitional patients (i.e. clients of state mental hospitals) is a public purpose of great statewide importance.

**SEC. 99.** Section 14838 of the Government Code is amended to read:

**14838.** In order to facilitate the participation of small business, including microbusiness, in the provision of goods, information technology, and services to the state, and in the construction (including alteration, demolition, repair, or improvement) of state facilities, the directors of the department and other state agencies that enter those contracts, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small Business and Disabled Veteran Business Enterprise Services, for the extent of participation of small businesses, including microbusinesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

(b) Provide for small business preference, or nonsmall business preference for bidders that provide for small business and microbusiness subcontractor participation, in the award of contracts for goods, information technology, services, and construction, as follows:

(1) In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to small business and microbusiness shall be 5 percent of the lowest responsible bidder meeting specifications. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be, up to a maximum of 5 percent of the lowest responsible bidder meeting specifications, determined according to rules and regulations established by the Department of General Services.

(2) In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to small business or microbusiness shall be 5 percent of the highest responsible bidder's total score. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be up to a maximum 5 percent of the highest responsible bidder's total score, determined according to rules and regulations established by the Department of General Services.

(3) The preferences under paragraphs (1) and (2) shall not be awarded to a noncompliant bidder and shall not be used to achieve any applicable minimum requirements.

(4) The preference under paragraph (1) shall not exceed fifty thousand dollars (\$50,000) for any bid, and the combined cost of preferences granted pursuant to paragraph (1) and any other provision of law shall not exceed one hundred thousand dollars (\$100,000). In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar (\$50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses, including microbusinesses, in the contract award.

(c) Give special consideration to small businesses and microbusinesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses and microbusinesses in the preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 10163 of the Public Contract Code, make awards, whenever feasible, to small business and microbusiness bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business or microbusiness contractor to qualify to bid on these subprojects.

(f) Small business and microbusiness bidders qualified in accordance with this chapter shall have precedence over nonsmall business bidders in that the application of a bidder preference for which nonsmall business bidders may be eligible under this section or any other provision of law shall not result in the denial of the award to a small business or microbusiness bidder. In the event of a precise tie between the low responsible bid of a bidder meeting specifications of a small business or microbusiness, and the low responsible bid of a bidder meeting the specifications of a disabled veteran-owned small business or microbusiness, the contract shall be awarded to the disabled veteran-owned small business or microbusiness. This provision applies if the small business or microbusiness bidder is the lowest responsible bidder, as well as if the small business or microbusiness bidder is eligible for award as the result of application of the small business and microbusiness bidder preference granted by subdivision (b).

(g) If the directors of the department and other state agencies that enter into those contracts are unable to reach the goals established under subdivision (a) in the year in which the changes made by the act that added this subdivision become operative, the directors of the department and other state agencies may count towards that goal, contracts with firms that would be

considered a small business or microbusiness under the amendments made to Section 14837 by the act adding this subdivision. This subdivision shall become operative on January 1, 2019.

**SEC. 100.** Section 15827 of the Government Code is amended to read:

**15827.** (a) The rights and remedies conferred by this part upon or granted to certificate holders are in addition to and not in limitation of any rights and remedies lawfully granted to these certificate holders by the resolutions providing for the issuance of certificates.

(b) If the board defaults in the payment of principal or interest on any of the certificates after the principal or interest becomes due, whether at maturity or upon call for redemption, and if that default continues for a period of 60 days, or if the board fails or refuses to comply with the provisions of this part or defaults in any agreement made with the certificate holders, the holders of 25 percent in aggregate principal amount of the certificates then outstanding by instruments filed in the Office of the County Recorder of the County of Sacramento, and acknowledged in the same manner as a deed to be recorded except as this right is limited under the provisions of any deed of trust, indenture, or other agreement, may appoint a trustee to represent the certificate holders for the purposes provided in this part. The trustee or any trustee under any deed of trust, indenture, or other agreement may, and upon written request of the holders of 25 percent in principal amount of the certificates then outstanding, or any other percentage as is specified in the deed of trust, indenture or other agreement, shall in his or her name:

(1) By proper proceedings and actions enforce all rights of the certificate holders, including the right to require the board to collect rates, rentals and other charges adequate to carry out any agreement as to the revenues, or the pledge of revenues or receipts of the board, to lease public buildings to state agencies or otherwise and require the board to carry out any other agreements with or for the benefit of the certificate holders, and to perform its duties under this part.

(2) Bring suit upon the certificates.

(3) By an action require the board to account as if it were the trustee of an express trust for the certificate holders.

(4) By an action enjoin any acts or things that may be unlawful or in violation of the certificate holders' rights.

(5) By notice in writing to the board declare certificates due and payable, and if all defaults are made good then with the consent of the holders of 25 percent of the principal amount of the certificates then outstanding or such other percentage as is specified in any deed of trust, indenture, or other agreement, annul the declaration that certificates are due and payable.

**SEC. 101.** Section 15830 of the Government Code is amended to read:

**15830.** (a) The bonds issued to finance the construction of a public building or buildings pursuant to this part shall be special obligations of this state secured solely by the revenues, rentals, or receipts received from the operation of the public building or buildings financed by these bonds.

(b) A bond issued or sold pursuant to this part shall not be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this part. Every bond issued pursuant to this part shall contain a recital on the face thereof stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California other than as provided in this part. The board has no power at any time or in any manner to pledge the credit or taxing power of the state, other than as provided in this part.

**SEC. 102.** Section 15831 of the Government Code is amended to read:

**15831.** (a) All bonds issued under this part shall bear the facsimile signature of the Governor and the facsimile countersignature of the Controller and the Treasurer, and the bonds shall be signed, countersigned, and endorsed by the officers who shall be in office on the date of issuance thereof, and each of the bonds shall bear an impress of the Great Seal of the State of California. The bonds so signed, countersigned, endorsed, and sealed, when sold, are valid although the sale thereof be made at a date or dates upon which the officers having signed, countersigned, and endorsed the bonds, or any or either of the officers, shall have ceased to be the incumbents of the offices held by them at the time of signing, countersigning, or endorsing the bonds. Each bond issued under this part, if subject to call or redemption before maturity, shall contain a recital to that effect.

(b) The rate of interest to be borne by the bonds need not be uniform for all bonds of the same issue or series or maturity and a "not to exceed" interest rate may be determined and fixed by the board by resolution adopted before or after the sale of the bonds. The Treasurer, when authorized by resolution of the board, may sell bonds above, below, or at their par or face value.

**SEC. 103.** Section 15832 of the Government Code is amended to read:

**15832.** (a) Upon receipt of a resolution of the board authorizing the issuance of bonds, the Treasurer shall provide for their preparation in accordance with the resolution. The bonds authorized to be issued shall be sold by the Treasurer, at public sale or at private sale, as directed by the board. In the case of public sale, both of the following apply:

(1) The bonds shall be sold by the Treasurer, at such time as may be fixed by him or her, and upon such notice as he or she may deem advisable, upon bids submitted to the Treasurer in the form and by the means specified by the Treasurer, to the bidder whose bid will result in the lowest interest cost on account of such bonds.

(2) If no bids are received, or if the Treasurer determines that the bids are not satisfactory, the Treasurer may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(b) For purposes of this chapter, the method for determining the lowest interest cost bid shall be determined by the Treasurer and shall be limited to either the net interest cost method or the true interest cost method determined by the bids as submitted in accordance with the notice of sale. The net interest cost of each bid shall be determined by ascertaining the total amount of interest that the state would be required to pay under that bid, from the date of the bonds to the respective maturity dates of the bonds then offered for sale, at the interest rate or rates specified in the bid, less the total amount of the premium, if any, or plus the total amount of the discount, if any, offered by the bid. The bid under which the amount ascertained is the least shall be deemed to be the bid resulting in the lowest net interest cost. Under the true interest cost method, the bonds shall be awarded to the bidder submitting the lowest interest rate bid determined by the nominal interest rate that, when compounded semiannually and used to discount the debt service payments on the bonds to the date of the bonds, results in an amount equal to the price bid for the bonds, excluding interest accrued to the date of delivery.

(c) Temporary or interim bonds, certificates, or receipts of any denomination whatever, to be signed by the Treasurer, may be issued and delivered until the definitive bonds are executed and available for delivery. Signature of the Treasurer may be by signature stamp.

**SEC. 104.** Section 15841 of the Government Code is amended to read:

**15841.** (a) The rights and remedies conferred by this part upon or granted to bondholders are in addition to and not in limitation of any rights and remedies lawfully granted to those bondholders by the resolutions providing for the issuance of bonds, or by any deed of trust, indenture, or other agreement under which the bonds are issued.

(b) If the board defaults in the payment of principal or interest on any of the bonds after the principal or interest becomes due, whether at maturity or upon call for redemption, and if that default continues for a period of 60 days, or if the board fails or refuses to comply with the provisions of this part or defaults in any agreement made with the bondholders, the holders of 25 percent in aggregate principal amount of the bonds then outstanding by instruments filed in the Office of the County Recorder of the County of Sacramento, and acknowledged in the same manner as a deed to be recorded except as this right is limited under the provisions of any deed of trust, indenture, or other agreement, may appoint a trustee to represent the bondholders for the purposes provided in this part. The trustee or any trustee under any deed of trust, indenture, or other agreement may, and upon written request of the holders of 25 percent in principal amount of the bonds then outstanding, or any other percentage as is specified in the deed of trust, indenture or other agreement, shall in his name:

(1) By proper proceedings and actions enforce all rights of the bondholders, including the right to require the board to collect rates, rentals, and other charges adequate to carry out any agreement as to the revenues, or the pledge of the revenues or receipts of the board, to lease public buildings to state agencies or otherwise, and require the board to carry out any other agreements with or for the benefit of the bondholders, and to perform its duties under this part.

(2) Bring suit upon the bonds.

(3) By an action require the board to account as if it were the trustee of an express trust for the bondholders.

(4) By an action enjoin any acts or things which may be unlawful or in violation of the bondholders' rights.

(5) By notice in writing to the board declare bonds due and payable, and if all defaults are made good then with the consent of the holders of 25 percent of the principal amount of the bonds then outstanding, or any other percentage as is specified in any deed of trust, indenture, or other agreement, annul the declaration that bonds are due and payable.

**SEC. 105.** Section 16500.5 of the Government Code is amended to read:

**16500.5.** (a) The definitions in Section 1670 of, and Chapter 1 (commencing with Section 99) of Division 1 of, the Financial Code apply to this section.

(b) In this chapter, for purposes of being an eligible bank for the safekeeping of moneys belonging to, or in the custody of, the state, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in this state," and

"state or national banks in the state" shall include, without limitation, any of the following:

- (1) Any California branch office of a foreign (other state) state bank that the bank is authorized to maintain under the law of its domicile and federal law.
- (2) Any California branch office of a foreign (other state) national bank that the bank is authorized to maintain under federal law.
- (3) Any California branch office of a foreign (other nation) bank that the bank is licensed to maintain under Article 3 (commencing with Section 1800) of Chapter 20 of Division 1 of the Financial Code.
- (4) Any California federal branch of a foreign (other nation) bank that the bank is authorized to maintain under federal law.

**SEC. 106.** Section 20351 of the Government Code is amended to read:

**20351.** The provisions of this part extending rights to a member of this system, or subjecting him or her to any limitation by reason of his or her membership in a county retirement system, apply in like manner and under like conditions to a member of this system by reason of his or her membership in any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with and accepted by the board or by reason of his or her membership in a retirement system established by or pursuant to the charter of a city or city and county or by any other public agency of this state and that system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in this system and with respect to which the governing body of the city, city and county or public agency and the board have entered into agreement pursuant to this section. An agreement under this section shall provide that the governing body shall modify its retirement system to conform to any amendments to this part affecting a member's right because of membership in a county retirement system, and may contain other provisions consistent with this section as the board deems appropriate. This section applies only to a member whose termination and entry into employment resulting in a change in membership from this system to the other system or from the other system to this system occurred after the acceptance by the board or after the effective date specified in the agreement. However, provisions relating to computation of final compensation apply to any other member if the provision would have applied had the termination and entry into employment occurred after the acceptance or determination by the board.

**SEC. 107.** Section 20636 of the Government Code is amended to read:

**20636.** (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(A) Participation in a deferred compensation plan.

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) The computation for a leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(4) The computation for time before entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines

is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall do all of the following:

(A) Identify the pay period in which the special compensation was earned.

(B) Identify each item of special compensation and the category under which that item is listed, as described in regulations promulgated by the board pursuant to paragraph (6), for example, the item of Uniform Allowance would be reported under the category of Statutory Items.

(C) Report each item of special compensation separately from payrate.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of a service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, is not special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. A single employee is not a group or class.

(2) Increases in compensation earnable granted to an employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with, or in anticipation of, a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) (1) Notwithstanding subdivision (a), "compensation earnable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the payrate and special compensation of the member. The computation for an absence of a member shall be based on the compensation earnable by him or her at the beginning of the absence and for time before entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in that state service.

(2) Notwithstanding subdivision (b), "payrate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. "Payrate" for state members shall include:

(A) An amount deducted from a member's salary for any of the following:

- (i) Participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6.
- (ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.
- (iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.
- (iv) Participation in a flexible benefits program.

(B) A payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan that meets the requirements of Section 403(b) of Title 26 of the United States Code.

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of Title 26 of the United States Code.

(D) Disability or workers' compensation payments to safety members in accordance with Section 4800 of the Labor Code.

(E) Temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

(F) Other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished to a member by his or her employer in payment for the member's services.

(B) Compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, Peace Officer Standards and Training (POST) certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20632.

(D) Other payments the board may determine to be within "special compensation."

(4) "Payrate" and "special compensation" for state members do not include any of the following:

(A) The provision by the state employer of a medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), a contribution by the employer to meet the premium or charge for that plan, or a payment into a private fund to provide health and welfare benefits for employees.

(B) A payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contributions Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of Title 26 of the United States Code.

(D) Benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts deducted from a member's wages for participation in a deferred compensation plan are not "employer payments."

(F) Payments for unused vacation, annual leave, personal leave, sick leave, or compensating time off, whether paid in lump sum or otherwise.

(G) Final settlement pay.

(H) Payments for overtime, including pay in lieu of vacation or holiday.

(I) Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member's regular work shift.

(J) Amounts not available for payment of salaries and that are applied by the employer for any of the following:

- (i) The purchase of a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.
- (ii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(K) Payments made by the employer to or on behalf of its employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed the employee's salary.

(L) Other payments the board may determine are not "payrate" or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act. A memorandum of understanding reached pursuant to Section 3517.5 or 3560 shall not exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Human Resources or the Trustees of the California State University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Human Resources shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for a managerial employee, as defined in Section 3562, or supervisory employee as defined in Section 3580.3.

(7) Notwithstanding subdivision (c), a state employer shall, when reporting payrate and special compensation, do all of the following:

- (A) Identify the pay period in which the special compensation was earned.
- (B) Identify each item of special compensation, as permitted pursuant to paragraphs (3) and (5).
- (C) Report each item of special compensation separately from payrate.

(h) This section does not apply to a new member, as defined in Section 7522.04.

**SEC. 108.** Section 20636.1 of the Government Code is amended to read:

**20636.1.** (a) Notwithstanding Section 20636, and Section 45102 of the Education Code, "compensation earnable" by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For purposes of this part, for classified members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and

pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(A) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) or 403(b) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) For the purposes of this section, "classified members" shall mean members who retain membership under this system while employed with a school employer in positions not subject to coverage under the Defined Benefit Program under the State Teachers' Retirement System.

(C) For the purposes of this section, and Sections 20962 and 20966, "certificated members" shall mean members who retain membership under this system while employed in positions subject to coverage under the Defined Benefit Program under the State Teachers' Retirement System.

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(3) The computation for time before entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a school member includes any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall:

(A) Identify the pay period in which the special compensation was earned.

(B) Identify each item of special compensation and the category under which that item is listed, as described in regulations promulgated by the board pursuant to paragraph (6) of subdivision (c), for example, the item of Uniform Allowance would be reported under the category of Statutory Items.

(C) Report each item of special compensation separately from payrate.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, provided that the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of any service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, shall not be special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. A single employee is not a group or class.

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means any pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) This section does not apply to a new member, as defined in Section 7522.04.

**SEC. 109.** Section 20825 of the Government Code is amended to read:

**20825.** (a) (1) Notwithstanding any other law, in accordance with a schedule provided by the Department of Finance, the Controller shall, in accordance with paragraph (2), transfer up to six billion dollars (\$6,000,000,000) to the Public Employees' Retirement Fund from the Surplus Money Investment Fund and other funds in the Pooled Money Investment Account that accrue interest to the General Fund as a cash loan to supplement the state's employer contributions for the 2017–18 fiscal year. The schedule provided by the Department of Finance shall specify the timing and amounts of transfers to the Public Employees' Retirement Fund.

(2) Notwithstanding any other law, no sooner than 30 calendar days after the Department of Finance has provided the schedule of payments described in paragraph (1) to the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine, the Controller shall transfer funds pursuant to the payment schedule established by the Department of Finance described in paragraph (1).

(3) The supplemental payment to the Public Employees' Retirement Fund described in paragraph (1) shall be apportioned to the following state employee member categories, as directed by the Department of Finance, not to exceed the following amounts:

(A) Three billion six hundred million dollars (\$3,600,000,000) to the state miscellaneous member category.

(B) One hundred million dollars (\$100,000,000) to the state industrial member category.

(C) Three hundred million dollars (\$300,000,000) to the state safety member category.

(D) One billion five hundred million dollars (\$1,500,000,000) to the state peace officer/firefighter member category.

(E) Five hundred million dollars (\$500,000,000) to the patrol member category.

(b) The supplemental payment to the Public Employees' Retirement Fund described in subdivision (a) is to be applied to unfunded liabilities for state-level pensions in excess of current base amounts for the 2017–18 fiscal year, and the repayment of the loan principal and the payment of interest from the General Fund constitutes an obligation described in subclause (IV) of clause (ii) of subparagraph (B) of paragraph (1) of subdivision (c) of Section 20 of Article XVI of the California Constitution.

(c) (1) Interest payments on outstanding loan amounts shall be calculated using the quarter to date yield at the two-year constant maturity United States Treasury rate for the calendar quarter concluded directly before the calculation. The interest payments shall be paid on a quarterly basis beginning in the 2017–18 fiscal year and shall continue until the loan has been fully repaid. The loan principal and interest shall be fully repaid on or before June 30, 2030. The interest payments are interest earnings of the Pooled Money Investment Account and shall be apportioned pursuant to Sections 16475 and 16480.6, unless modified by an agreement among the Department of Finance, the Controller, and the Treasurer, to comply with other laws or regulations.

(2) Repayment of the loan principal and the payment of interest shall be made from the General Fund and other funds and accounts that are required by law to fund the state's employer contribution to the Public Employees' Retirement Fund. Notwithstanding Section 13340, moneys for the repayment of the loan principal and payment of interest are hereby continuously appropriated for this purpose, and the timing and amounts to be transferred shall be pursuant to calculations provided by the Department of Finance. The Department of Finance shall devise a tracking mechanism and maintain records of payment by each fund in each fiscal year. The Department of Finance shall develop a repayment schedule that allocates the amount to each fund after evaluation of its share of costs and its fund availability. The Department of Finance shall ensure each fund pays its proportionate share of the loan principal and interest over the course of the loan.

(3) The Department of Finance shall certify to the Controller, and shall include in the published fund condition statement of the applicable funds and accounts, the amount determined to be the share of the loan principal and interest due and payable from each fund for the fiscal year described in paragraph (2). The Department of Finance may determine and direct the Controller to advance from the General Fund an amount up to the equivalent of the non-General Fund portion of the payment in each fiscal year for the repayment of the loan principal or payment of interest. Upon notification by the Department of Finance of the timing and the amounts to be transferred, the Controller shall transfer the amount of the loan principal repayment or interest payment, as applicable, from all funds to the Surplus Money Investment Fund or to the General Fund if repayment or payments are made in advance from the General Fund.

(d) If a fund has an insufficient fund balance for the repayment of loan principal or payment of interest, the Controller shall request that the Department of Finance provide direction on effecting the transfer and its timing. The implementation of this section shall not obstruct any of the trust purposes of the programs supported by funds on deposit in the Surplus Money Investment Fund and other funds in the Pooled Money Investment Account that accrue interest to the General Fund. Within one month after each calendar quarter is concluded, the Department of Finance shall submit a report to the Joint Legislative Budget Committee identifying funds or accounts with an insufficient fund balance and the direction provided to the Controller on these funds.

(e) On or before September 1, 2017, the Department of Finance shall submit a report to the Joint Legislative Budget Committee that describes the actuarial impact on contribution rates for each state employee member category receiving a supplemental payment under this section. The report shall describe the economic risks and benefits associated with making the cash loan provided by this section, including, but not limited to, a discussion of mechanisms available to adjust the repayment schedule and cost-allocation methodology.

**SEC. 110.** Section 22874.3 of the Government Code is amended to read:

**22874.3.** (a) Notwithstanding Sections 22870, 22871, 22873, and 22874, a state employee, defined by subdivision (c) of Section 3513, who is first employed by the state and becomes a state member of the system on or after January 1, 2017, and who is represented by State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 13, 14, 15, 17, 18, 19, 20, or 21 shall not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
15 .....	50
16 .....	55
17 .....	60
18 .....	65
19 .....	70
20 .....	75
21 .....	80
22 .....	85
23 .....	90
24 .....	95
25 or more .....	100

(c) This section applies only to state employees that retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation.

(d) This section does not apply to:

- (1) Former state employees previously employed before January 1, 2017, who return to state employment on or after January 1, 2017.
- (2) State employees hired before January 1, 2017, who become subject to representation by State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 13, 14, 15, 17, 18, 19, 20, or 21 on or after January 1, 2017.
- (3) State employees on an approved leave of absence employed before January 1, 2017, who return to active employment on or after January 1, 2017.
- (4) State employees hired after January 1, 2017, who are first represented by a state bargaining unit other than Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 13, 14, 15, 17, 18, 19, 20, or 21, who later become represented by State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 13, 14, 15, 17, 18, 19, 20, or 21.

(e) Notwithstanding Section 22875, this section also applies to a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 and is first employed by the state and becomes a state member of the system on or after January 1, 2017.

**SEC. 111.** Section 22958.1 of the Government Code is amended to read:

**22958.1.** (a) Notwithstanding Sections 22953, 22957, and 22958, the following employees shall not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 or more years of state service, as defined by this section, at the time of retirement:

- (1) A state employee, as defined by subdivision (c) of Section 3513, who is first employed by the state and becomes a state member of the system on or after January 1, 2017, and is represented by State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 17, 18, 19, 20, or 21.
- (2) A state employee related to State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 17, 18, 19, 20, or 21 who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 and is first employed by the state and becomes a state member of the system on or after January 1, 2017.

(b) The percentage of the employer contribution payable for postretirement dental care benefits for an employee subject to this section shall be based on the funding provision of the plan and the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
15 .....	50
16 .....	55
17 .....	60
18 .....	65
19 .....	70
20 .....	75
21 .....	80
22 .....	85
23 .....	90
24 .....	95
25 or more .....	100

(c) This section applies only to state employees that retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation.

(d) This section does not apply to:

- (1) Former state employees previously employed before January 1, 2017, who return to state employment on or after January 1, 2017.

(2) State employees hired before January 1, 2017, who become subject to representation by State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 17, 18, 19, 20, or 21 on or after January 1, 2017.

(3) State employees on an approved leave of absence employed before January 1, 2017, who return to active employment on or after January 1, 2017.

(4) State employees hired after January 1, 2017, who are first represented by a state bargaining unit other than Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 17, 18, 19, 20, or 21, who later become represented by State Bargaining Unit 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15, 17, 18, 19, 20, or 21.

(e) In those cases in which the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that public agency shall not be credited as state service for the purposes of this section unless the former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee dental benefits that were vested at the time that the function and the related personnel were assumed by the state, and the Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement dental benefit costs of those personnel. For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under this section.

**SEC. 112.** Section 31855.3 of the Government Code is amended to read:

**31855.3.** As used in this article "child" means a member's child who, when the member dies, is both dependent on the member and unmarried, as well as any of the following:

(a) Under 18 years of age.

(b) Any age, totally disabled, and became totally disabled before reaching 18 years of age.

(c) Between 18 and 22 years of age, and enrolled as a full-time student in an accredited school, as determined by the board.

**SEC. 113.** Section 53630.5 of the Government Code is amended to read:

**53630.5.** (a) The definitions in Section 1670 of, and Chapter 1 (commencing with Section 99) of Division 1 of, the Financial Code apply to this section.

(b) In this article, for purposes of being a depository of moneys belonging to or being in the custody of a local agency, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in this state," and "state or national banks in the state" include, without limitation, any of the following:

(1) A California branch office of a foreign (other state) state bank that the bank is authorized to maintain under the law of its domicile and federal law.

(2) A California branch office of a foreign (other state) national bank that the bank is authorized to maintain under federal law.

(3) A California branch office of a foreign (other nation) bank that the bank is licensed to maintain under Article 3 (commencing with Section 1800) of Chapter 20 of Division 1.1 of the Financial Code.

(4) A California federal branch of a foreign (other nation) bank that the bank is authorized to maintain under federal law.

**SEC. 114.** Section 65589.5 of the Government Code is amended to read:

**65589.5.** (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very

low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. A disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation does not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph shall not be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) This section does not relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Nor does this section relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) This section does not prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) This section does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section applies to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) of Chapter 4.5 shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record. For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to this paragraph, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(k) (1) (A) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that either (i) the local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence, or (ii) the local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project

or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. For purposes of this section, "lower density" includes conditions that have the same effect or impact on the ability of the project to provide housing.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency before action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, "bad faith" includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) An action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of

Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

**SEC. 115.** Section 65621 of the Government Code is amended to read:

**65621.** (a) A local government may establish a Workforce Housing Opportunity Zone by preparing an environmental impact report pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code to identify and mitigate, to the extent feasible, environmental impacts resulting from the establishment of that zone, and by adopting a specific plan that shall include text and a diagram or diagrams that specify all of the following in detail:

(1) The distribution and location of a minimum of 100 units to a maximum of 1,500 residential dwelling units. A local government shall not include more than 50 percent of the number of units in its regional housing needs allocation in a Workforce Housing Opportunity Zone. If a local government whose regional housing needs allocation is less than 100 units chooses to establish a Workforce Housing Opportunity Zone, then it shall include its entire allocation in the zone.

(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste, disposal, energy, and other essential facilities needed to support the construction of the residential dwelling units. Essential facilities may include improvements needed to K–12 schools that serve areas within the zone.

(3) The following mitigation measures that will apply to all development constructed within the zone in addition to any and all mitigation measures identified in the environmental impact report prepared for the specific plan:

(A) Traffic mitigation measures.

(B) Water quality and other public utility mitigation measures, including sewage, drainage, solid waste disposal, and energy.

(C) Natural resource protection mitigation measures.

(4) Density ranges for multifamily housing for which the minimum densities shall not be less than those deemed appropriate to accommodate housing for lower income households as set forth in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, and a density range for single-family attached or detached housing for which minimum densities shall not be less than 10 units to the acre. A density range shall provide the minimum dwelling units per acre and the maximum dwelling units per acre.

(5) Uniformly applied development policies or standards that will apply to all development constructed within the zone, including, for example, parking ordinances, public access requirements, grading ordinances, hillside development ordinances, flood plain ordinances, habitat protection or conservation ordinances, view protection ordinances, and requirements for reducing greenhouse gas emissions.

(6) The manner in which funding will be provided for the infrastructure and services necessary for the development within the zone, which may include an Enhanced Infrastructure Financing District or a Community Revitalization and Investment Authority.

(7) Design review standards.

(b) Before beginning the formal environmental evaluation of the specific plan, the planning commission and the legislative body of the local government shall each hold a public hearing to hear oral, and receive written, comments about a draft of the specific plan. There shall be a minimum of 30 days between the public hearings. The planning commission may recommend modifications of the draft to the legislative body. At the conclusion of the public hearing, the legislative body of the local government shall direct that formal environmental evaluation of the specific plan proceed in accordance with the modified draft.

(c) (1) If the local government has a planning commission authorized by local ordinance or resolution to review and recommend action on a proposed general plan, the commission shall hold at least one public hearing before approving a recommendation on the adoption of a specific plan pursuant to this subdivision. The local government shall provide the notice of the hearing pursuant to Section 65090 and paragraphs (1) and (3) of subdivision (a) of Section 65091.

(2) The legislative body of the local government shall hold at least two public hearings to consider the planning commission's recommendation and any and all public testimony. There shall be a minimum of 30 days between the public hearings to allow sufficient time to modify the plan in response to the public testimony as directed by the legislative body. The local government shall provide the notice of the hearing pursuant to Section 65090 and paragraphs (1) and (3) of subdivision (a) of Section 65091.

(d) The local government shall provide notice of the public hearings required by subdivisions (b) and (c) pursuant to Section 65091, including notice to local agencies, owners of real property within the zone, and each owner of real property within 300 feet of the real property within the zone.

(e) The legislative body of the local government, after adopting the plan, may impose a specific plan fee upon persons seeking government approvals within a zone. The fees shall be established to defray the cost of preparation, adoption, and administration of the plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the plan. The local government shall only use the fees to offset its costs and to reimburse funds borrowed from the Department of Housing and Community Development pursuant to Section 65624.

**SEC. 116.** Section 65623 of the Government Code is amended to read:

**65623.** (a) (1) Except as provided in paragraph (2), for a period of five years from the adoption of the specific plan pursuant to Section 65621, a local government shall approve a development that satisfies all of the criteria listed in paragraphs (3) to (7), inclusive, of subdivision (a) of Section 65621 in effect at the time the application for the development is deemed complete.

(2) If the local government finds, based upon substantial evidence in the record of the public hearing on the project, that a physical condition of the site of the development that was not known at the time the specific plan was prepared would have a specific, adverse impact upon the public health or safety, then the local government shall either: (A) approve the project subject to a condition that satisfactorily mitigates or avoids the impact, or (B) deny the project if the cost of complying with the condition renders the project unaffordable for the intended residents of low, moderate, or middle income and approval would cause more than 50 percent of the total units in the zone to be sold or rented to persons and families of above moderate income in violation of paragraph (3) of subdivision (c).

(b) As used in this subdivision, "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(c) After the adoption of the zone pursuant to Section 65621, a lead agency is not required to prepare an environmental impact report or negative environmental declaration for a housing development that satisfies all of the following criteria:

(1) The development is located on land within a Workforce Housing Opportunity Zone.

(2) The development is consistent with the plan adopted pursuant to subdivision (a) of Section 65621, including the density ranges established pursuant to paragraph (4) of subdivision (a) of Section 65621. If a development is not consistent with the elements and standards in the plan, then the provisions of this section does not apply and the city or county shall consider the application as it would an application for development that is not within the zone, including the preparation of an environmental impact report or a negative declaration for the housing development.

(3) (A) At least 30 percent of the total units constructed or substantially rehabilitated in the zone will be sold or rented to persons and families of moderate income, as defined by Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008; at least 15 percent of the total units constructed or substantially rehabilitated in the zone will be sold or rented to lower income households, as defined by Section 50079.5 of the Health and Safety Code; and at least 5 percent of the total units constructed or substantially rehabilitated in the zone will be restricted for a term of 55 years for very low income households, as defined by Section 50105 of the Health and Safety Code. No more than 50 percent of the total units constructed or substantially rehabilitated in the zone shall be sold or rented to persons and families of above moderate income.

(B) The developer shall provide sufficient legal commitments to ensure continued availability of units for very low, low-, moderate-, or middle-income households in accordance with the provisions of this subdivision for 55 years for rental units and 45 years for owner-occupied units.

(4) The development has incorporated each of the mitigation measures adopted pursuant to paragraph (3) of subdivision (a) of Section 65621 and deemed applicable by the city, county, or city and county.

(5) The development has incorporated each of the uniformly applied development standards adopted pursuant to paragraph (5) of subdivision (a) of Section 65621 and deemed applicable by the city, county, or city and county.

(6) The development complies with the design review standards adopted pursuant to paragraph (7) of subdivision (a) of Section 65621 and deemed applicable by the city, county, or city and county.

(7) The development has incorporated each of the mitigation measures adopted as part of the environmental impact report for the specific plan and deemed applicable by the city, county, or city and county.

(8) A development that is affordable to persons and families whose income exceeds the income limit for persons and families of moderate income shall include no less than 10 percent of the units for lower income households at affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, unless the locality has adopted a local ordinance that requires greater than 10 percent of the units, in which case that ordinance applies.

(9) The development proponent has certified that one of the following is true:

(A) The entirety of the project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the project is not in its entirety a public work, that all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the project that are not public work all of the following shall apply:

(i) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) Contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice rate.

(iii) Except as provided in clause (v), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section.

(iv) Except as provided in clause (v), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(v) Clauses (iii) and (iv) shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(vi) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude the use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(d) (1) Notice that a local government has received an application for a housing development within a Workforce Housing Opportunity Zone shall be posted on the local government's Internet Web site and mailed or delivered within 10 days of receiving the application to any person who has filed a written request for notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests.

(2) A local government shall approve a housing development proposed within the zone that is consistent with the plan and satisfies each of the criteria in subdivision (c) within 60 days of the date the application is deemed complete pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(e) The approval of a development that does not include a majority of the units that will be sold or rented to persons and families of lower income, as defined in Section 50079.5 of the Health and Safety Code, shall expire three years from the date of the approval, if construction has not begun on the housing units in the development. A local government may grant one extension for an additional three-year period upon a determination that good cause exists for the delay in commencing construction. A local government shall not consider the same or substantially similar project on the same parcel of property if the development expires pursuant to this subdivision.

**SEC. 117.** Section 65624 of the Government Code is amended to read:

**65624.** (a) A local government may submit an application to the Department of Housing and Community Development for a grant or no-interest loan, or both, to support the local government's efforts to develop a specific plan and accompanying environmental impact report within a Workforce Housing Opportunity Zone established pursuant to this article. Upon appropriation by the Legislature, moneys shall be disbursed from the Treasurer to the Department of Housing and Community Development for the purpose of issuing grants or loans, or both, pursuant to this subdivision.

(b) The Department of Housing and Community Development may adopt, amend, or repeal guidelines, that shall include public comment, to implement the grant or loan program authorized by this article. The guidelines shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) A local government shall explain as part of its application, to the satisfaction of the Department of Housing and Community Development, the source of funding that will be used to repay a loan. A local government may include as one source of funding a fee imposed on a developer within the zone as provided in subdivision (e) of Section 65621.

**SEC. 118.** Section 65863.11 of the Government Code is amended to read:

**65863.11.** (a) Terms used in this section shall be defined as follows:

(1) "Assisted housing development" and "development" mean a multifamily rental housing development of five or more units as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(2) "Owner" means an individual, corporation, association, partnership, joint venture, or business entity that holds title to an assisted housing development.

(3) "Tenant" means a tenant, subtenant, lessee, sublessee, or other person legally in possession or occupying the assisted housing development.

(4) "Tenant association" means a group of tenants who have formed a nonprofit corporation, cooperative corporation, or other entity or organization, or a local nonprofit, regional, or national organization whose purpose includes the acquisition of an assisted housing development and that represents the interest of at least a majority of the tenants in the assisted housing development.

(5) "Low or moderate income" means having an income as defined in Section 50093 of the Health and Safety Code.

(6) "Very low income" means having an income as defined in Section 50105 of the Health and Safety Code.

(7) "Local nonprofit organizations" means not-for-profit corporations organized pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income, and which have a broadly representative board, a majority of whose members are community based and have a proven track record of local community service.

(8) "Local public agencies" means housing authorities, redevelopment agencies, or any other agency of a city, county, or city and county, whether general law or chartered, which are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

(9) "Regional or national organizations" means not-for-profit, charitable corporations organized on a multicounty, state, or multistate basis that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income and own and operate at least three comparable rent- and income-restricted affordable rental properties governed under a regulatory agreement with a department or agency of the State of California or the United States, either directly or by serving as the managing general partner of limited partnerships or managing member of limited liability corporations.

(10) "Regional or national public agencies" means multicounty, state, or multistate agencies that are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income and own and operate at least three comparable rent- and income-restricted affordable rental properties governed under a regulatory agreement with a department or agency of the State of California or the United States, either directly or by serving as the managing general partner of limited partnerships or managing member of limited liability corporations.

(11) "Use restriction" means any federal, state, or local statute, regulation, ordinance, or contract that, as a condition of receipt of any housing assistance, including a rental subsidy, mortgage subsidy, or mortgage insurance, to an assisted housing development, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within a development, imposes any restrictions on the maximum rents that could be charged for any of the units within a development; or requires that rents for any of the units within a development be reviewed by any governmental body or agency before the rents are implemented.

(12) "Profit-motivated housing organizations and individuals" means individuals or two or more persons organized pursuant to Division 1 (commencing with Section 100) of Title 1 of, Division 3 (commencing with Section 1200) of Title 1 of, or Chapter 5 (commencing with Section 16100) of Title 2 of, the Corporations Code, that carry on as a business for profit and own and operate at least three comparable rent- and income-restricted affordable rental properties governed under a regulatory agreement with a department or agency of the State of California or the United States, either directly or by serving as the managing general partner of limited partnerships or managing member of limited liability corporations.

(13) "Department" means the Department of Housing and Community Development.

(14) "Offer to purchase" means an offer from a qualified or nonqualified entity that is nonbinding on the owner.

(15) "Expiration of rental restrictions" has the meaning given in paragraph (5) of subdivision (a) of Section 65863.10.

(b) An owner of an assisted housing development shall not terminate a subsidy contract or prepay the mortgage pursuant to Section 65863.10, unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivisions (g) and (h). An owner of an assisted housing development in which there will be the expiration of rental restrictions shall also provide each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivisions (g) and (h). An owner who meets the requirements of Section 65863.13 shall be exempt from this requirement.

(c) An owner of an assisted housing development shall not sell, or otherwise dispose of, the development at any time within the five years before the expiration of rental restrictions or at any time if the owner is eligible for prepayment or termination within five years unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with this section. An owner who meets the requirements of Section 65863.13 shall be exempt from this requirement.

(d) The entities to whom an opportunity to purchase shall be provided include only the following:

- (1) The tenant association of the development.
- (2) Local nonprofit organizations and public agencies.
- (3) Regional or national nonprofit organizations and regional or national public agencies.
- (4) Profit-motivated housing organizations or individuals.

(e) For the purposes of this section, to qualify as a purchaser of an assisted housing development, an entity listed in subdivision (d) shall do all of the following:

(1) Be certified by the department, based on demonstrated relevant prior experience in California and current capacity, as capable of operating the housing and related facilities for its remaining useful life, either by itself or through a management agent. The department shall establish a process for certifying qualified entities and maintain a list of entities that are certified, which list shall be updated at least annually.

(2) Agree to obligate itself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for either a 30-year period from the date that the purchaser took legal possession of the housing or the remaining term of the existing federal government assistance specified in subdivision (a) of Section 65863.10, whichever is greater. The development shall be continuously occupied in the approximate percentages that those households who have occupied that development on the date the owner gave notice of intent or the approximate percentages specified in existing use restrictions, whichever is higher. This obligation shall be recorded before the close of escrow in the office of the county recorder of the county in which the development is located and shall contain a legal

description of the property, indexed to the name of the owner as grantor. An owner that obligates itself to an enforceable regulatory agreement that will ensure for a period of not less than 30 years that rents for units occupied by low- and very low income households or that are vacant at the time of executing a purchase agreement will conform with restrictions imposed by Section 42(f) of the Internal Revenue Code shall be deemed in compliance with this paragraph. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, should they be available, provided that assistance is at a level to maintain the project's fiscal viability.

(3) Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in assisted housing developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions.

(f) If an assisted housing development is not economically feasible, as determined by all entities with regulatory agreements and deed-restrictions on the development, a purchaser shall be entitled to remove one or more units from the rent and occupancy requirements as is necessary for the development to become economically feasible, provided that once the development is again economically feasible, the purchaser shall designate the next available units as low-income units up to the original number of those units.

(g) If an owner decides to terminate a subsidy contract, or prepay the mortgage pursuant to Section 65863.10, or sell or otherwise dispose of the assisted housing development pursuant to subdivision (b) or (c), or if the owner has an assisted housing development in which there will be the expiration of rental restrictions, the owner shall first give notice of the opportunity to offer to purchase to each qualified entity on the list provided to the owner by the department, in accordance with subdivision (o), as well as to those qualified entities that directly contact the owner. The notice of the opportunity to offer to purchase must be given before or concurrently with the notice required pursuant to Section 65863.10 for a period of at least 12 months. The owner shall contact the department to obtain the list of qualified entities. The notice shall conform to the requirements of subdivision (h) and shall be sent to the entities by registered or certified mail, return receipt requested. The owner shall also post a copy of the notice in a conspicuous place in the common area of the development.

(h) The initial notice of a bona fide opportunity to submit an offer to purchase shall contain all of the following:

(1) A statement addressing all of the following:

(A) Whether the owner intends to maintain the current number of affordable units and level of affordability.

(B) Whether the owner has an interest in selling the property.

(C) Whether the owner has executed a contract or agreement of at least five years' duration with a public entity to continue or replace subsidies to the property and to maintain an equal or greater number of units at an equal or deeper level of affordability and, if so, the length of the contract or agreement.

(2) A statement that each of the type of entities listed in subdivision (d), or any combination of them, has the right to purchase the development under this section.

(3) (A) Except as provided in subparagraph (B), a statement that the owner will make available to each of the types of entities listed in subdivision (d), within 15 business days of receiving a request therefor, that includes all of the following:

(i) Itemized lists of monthly operating expenses for the property.

(ii) Capital improvements, as determined by the owner, made within each of the two preceding calendar years at the property.

(iii) The amount of project property reserves.

(iv) Copies of the two most recent financial and physical inspection reports on the property, if any, filed with a federal, state, or local agency.

(v) The most recent rent roll for the property listing the rent paid for each unit and the subsidy, if any, paid by a governmental agency as of the date the notice of intent was made pursuant to Section 65863.10.

(vi) A statement of the vacancy rate at the property for each of the two preceding calendar years.

(vii) The terms of assumable financing, if any, the terms of the subsidy contract, if any, and proposed improvements to the property to be made by the owner in connection with the sale, if any.

(B) Subparagraph (A) shall not apply if 25 percent or less of the units on the property are subject to affordability restrictions or a rent or mortgage subsidy contract.

(C) A corporation authorized pursuant to Section 52550 of the Health and Safety Code or a public entity may share information obtained pursuant to subparagraph (A) with other prospective purchasers, and shall not be required to sign a confidentiality agreement as a condition of receiving or sharing this information, provided that the information is used for the purpose of attempting to preserve the affordability of the property.

(4) A statement that the owner has satisfied all notice requirements pursuant to subdivision (b) of Section 65863.10, unless the notice of opportunity to submit an offer to purchase is delivered more than 12 months before the anticipated date of termination, prepayment, or expiration of rental restrictions.

(i) If a qualified entity elects to purchase an assisted housing development, it shall make a bona fide offer to purchase the development at the market value determined pursuant to subdivision (k), subject to the requirements of this subdivision. A qualified entity's bona fide offer to purchase shall be submitted within 180 days of the owner's notice of the opportunity to submit an offer pursuant to subdivision (g), identify whether it is a tenant association, nonprofit organization, public agency, or profit-motivated organizations or individuals, and certify, under penalty of perjury, that it is qualified pursuant to subdivision (e). If an owner has received a bona fide offer from a qualified entity within the first 180 days from the date of an owner's bona fide notice of the opportunity to submit an offer to purchase, the owner shall not accept offers from any other entity and shall either accept the bona fide offer to purchase or declare under penalty of perjury in writing to the qualified entity and the department on a form approved by the department that it will not sell the property for at least five years from the date of the declaration. Once a bona fide offer is made, the owner shall take all steps reasonably required to renew any expiring housing assistance contract, or extend any available subsidies or use restrictions, if feasible, before the effective date of any expiration or termination. In the event that the owner declines to sell the property to the qualified entity, the owner shall record the declaration with the county in which the property is located. Once the owner has recorded the declaration, the owner shall be deemed to have fulfilled all obligations under this section.

(j) When a bona fide offer to purchase has been made that meets the requirements of this section and the owner wishes to sell, the owner shall accept the offer and execute a purchase agreement within 90 days of receipt of the offer.

(k) The market value of the property shall be determined by negotiation and agreement between the parties. If the parties fail to reach an agreement regarding the market value, the market value shall be determined by an appraisal process initiated by the owner's receipt of the bona fide offer, which shall specifically reference the appraisal process provided by this subdivision as the means for determining the final purchase price. Either the owner or the qualified entity, or both, may request that the fair market value of the property's highest and best use, based on current zoning, be determined by an independent appraiser qualified to perform multifamily housing appraisals, who shall be selected and paid by the requesting party. All appraisers shall possess qualifications equivalent to those required by the members of the Appraisal Institute and shall be certified by the department as having sufficient experience in appraising comparable rental properties in California. If the appraisals differ by less than 5 percent, the market value and sales price shall be set at the higher appraised value. If the appraisals differ by more than 5 percent, the parties may elect to have the appraisers negotiate a mutually agreeable market value and sales price, or to jointly select a third appraiser, whose determination of market value and the sales price shall be binding.

(l) During the 180-day period following the initial 180-day period required pursuant to subdivision (i), an owner may accept an offer from a person or an entity that does not qualify under subdivision (e). This acceptance shall be made subject to the owner's providing each qualified entity that made a bona fide offer to purchase the first opportunity to purchase the development at the same terms and conditions as the pending offer to purchase, unless these terms and conditions are modified by mutual consent. The owner shall notify in writing those qualified entities of the terms and conditions of the pending offer to purchase, sent by registered or certified mail, return receipt requested. The qualified entity shall have 30 days from the date the notice is mailed to submit a bona fide offer to purchase and that offer shall be accepted by the owner. The owner shall not be required to comply with the provisions of this subdivision if the person or the entity making the offer during this time period agrees to maintain the development for persons and families of very low, low, and moderate income in accordance with paragraph (2) of subdivision (e). The owner shall notify the department regarding how the buyer is meeting the requirements of paragraph (2) of subdivision (e).

(m) This section does not apply to any of the following: a government taking by eminent domain or negotiated purchase; a forced sale pursuant to a foreclosure; a transfer by gift, devise, or operation of law; a sale to a person who would be included within the table of descent and distribution if there were to be a death intestate of an owner; or an owner who certifies, under penalty of perjury, the existence of a financial emergency during the period covered by the first right of refusal requiring immediate access to the proceeds of the sale of the development. The certification shall be made pursuant to subdivision (p).

(n) Prior to the close of escrow, an owner selling, leasing, or otherwise disposing of a development to a purchaser who does not qualify under subdivision (e) shall certify under penalty of perjury that the owner has complied with all provisions of this section and Section 65863.10. This certification shall be recorded and shall contain a legal description of the property, shall be indexed to the name of the owner as grantor, and may be relied upon by good faith purchasers and encumbrances for value and without notice of a failure to comply with the provisions of this section.

A person or entity acting solely in the capacity of an escrow agent for the transfer of real property subject to this section shall not be liable for any failure to comply with this section unless the escrow agent either had actual knowledge of the requirements of this section or acted contrary to written escrow instructions concerning the provisions of this section.

(o) The department shall undertake the following responsibilities and duties:

(1) Maintain a form containing a summary of rights and obligations under this section and make that information available to owners of assisted housing developments as well as to tenant associations, local nonprofit organizations, regional or national nonprofit organizations, public agencies, and other entities with an interest in preserving the state's subsidized housing.

(2) Compile, maintain, and update a list of entities in subdivision (d) that have either contacted the department with an expressed interest in purchasing a development in the subject area or have been identified by the department as potentially having an interest in participating in a right-of-first-refusal program. The department shall publicize the existence of the list statewide. Upon receipt of a notice of intent under Section 65863.10, the department shall make the list available to the owner proposing the termination, prepayment, or removal of government assistance or to the owner of an assisted housing development in which there will be the expiration of rental restrictions. If the department does not make the list available at any time, the owner shall only be required to send a written copy of the opportunity to submit an offer to purchase notice to the qualified entities which directly contact the owner and to post a copy of the notice in the common area pursuant to subdivision (g).

(3) (A) Monitor compliance with this section and Sections 65863.10 and 65863.13 by owners of assisted housing developments and, notwithstanding Section 10231.5, provide a report to the Legislature, on or before March 31, 2019, and on or before March 31 each year thereafter, containing information for the previous year that includes, but is not limited to, the following:

(i) The number of properties and rental units subject to this section and Sections 65863.10 and 65863.13.

(ii) The number of properties and units that did any of the following:

(I) Complied with the requirements of this section and Sections 65863.10 and 65863.13.

(II) Failed to comply with the requirements of this section and Sections 65863.10 and 65863.13.

(III) Were offered for sale and therefore subject to the purchase right provisions of this section.

(IV) Were offered for sale and complied with the purchase right provisions of this section and the outcomes of the purchase right actions, including whether the property changed hands, to whom, and with what impact on affordability protections.

(V) Were offered for sale and failed to comply with the purchase right provisions of this section, the reason for their failure to comply, and the impact of their failure to comply on the affordability protections and the tenants who were residing in the property at the time of the failure.

(VI) Claimed exemptions from the obligations of this section pursuant to Section 65863.13 by category of reason for exemption.

(VII) Claimed exemptions from the obligations of this section and lost affordability protections and the impact on the tenants of the loss of the affordability protections.

(VIII) Were not offered for sale and complied with the requirement to properly execute and record a declaration.

(IX) Were not for sale and failed to comply with the requirement to properly execute and record a declaration.

(B) To facilitate the department's compliance monitoring owners of assisted housing developments in which at least 25 percent of the units on the property are subject to affordability restrictions or a rent or mortgage subsidy contract shall certify compliance with this section and Sections 65863.10 and 65863.13 to the department annually, under penalty of perjury, in a form as required by the department.

(C) The report required to be submitted pursuant to this paragraph shall be submitted in compliance with Section 9795.

(4) Refer violations of this section and Sections 65863.10 and 65863.13 to the Attorney General for appropriate enforcement action.

(p) (1) The provisions of this section may be enforced either in law or in equity by any qualified entity entitled to exercise the opportunity to purchase and right of first refusal under this section or any tenant association at the property or any affected public

entity that has been adversely affected by an owner's failure to comply with this section. In any judicial action brought pursuant to this subdivision, the court may waive any bond requirement and may award attorney's fees and costs to a prevailing plaintiff.

(2) An owner may rely on the statements, claims, or representations of any person or entity that the person or entity is a qualified entity as specified in subdivision (d), unless the owner has actual knowledge that the purchaser is not a qualified entity.

(3) If the person or entity is not an entity as specified in subdivision (d), that fact, in the absence of actual knowledge as described in paragraph (2), shall not give rise to any claim against the owner for a violation of this section.

(q) It is the intent of the Legislature that the provisions of this section are in addition to, but not preemptive of, applicable federal laws governing the sale or other disposition of a development that would result in either (1) a discontinuance of its use as an assisted housing development or (2) the termination or expiration of any low-income use restrictions that apply to the development.

(r) This section does not apply to either of the following:

(1) An assisted housing development as described in clause (iv) of subparagraph (M) of paragraph (3) of subdivision (a) of Section 65863.10 in which 25 percent or less of the units are subject to affordability restrictions.

(2) An assisted housing development in which 25 percent or less of the units are subject to affordability restrictions that was developed in compliance with a local ordinance, charter amendment, specific plan, resolution, or other land use policy or regulation requiring that a housing development contain a fixed percentage of units affordable to extremely low, very low, low-, or moderate-income households.

(s) The department shall comply with any obligations under this section through the use of standards, forms, and definitions adopted by the department. The department may review, adopt, amend, and repeal the standards, forms, or definitions to implement this section. Any standards, forms, or definitions adopted to implement this section shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

**SEC. 119.** Section 65913.4 of the Government Code is amended to read:

**65913.4.** (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(3) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land use restriction for the following applicable minimum durations:

(A) Fifty-five years for units that are rented.

(B) Forty-five years for units that are owned.

(4) The development satisfies both of the following:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period. A locality is subject to this subparagraph if it has not submitted an annual

housing element report to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval under this section.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income. If the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that zoning ordinance applies.

(ii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of housing affordable to households making below 80 percent of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to any income level described in clause (i) or (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code is subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce is subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) Design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing

compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(d) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing parking requirements in multifamily developments, shall not impose parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(e) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making below 80 percent of the area median income.

(2) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

(f) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(g) This section does not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(h) For purposes of this section:

(1) "Department" means the Department of Housing and Community Development.

(2) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(3) "Completed entitlements" means a housing development which has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(4) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(5) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(6) "Subsidized" means units that are price or rent restricted such that the units are permanently affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(7) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(8) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(i) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Guidelines or terms adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

**SEC. 120.** Section 66201 of the Government Code is amended to read:

**66201.** (a) A city, county, or city and county, upon receipt of preliminary approval by the department pursuant to Section 66202, may establish by ordinance a housing sustainability district in accordance with this chapter. The city, county, or city and county shall adopt the ordinance in accordance with the requirements of Chapter 4 (commencing with Section 65800).

(b) An area proposed to be designated a housing sustainability district pursuant to this chapter shall satisfy all of the following requirements:

(1) The area is an eligible location, including any adjacent area served by existing infrastructure and utilities.

(2) The area is zoned to permit residential use through the ministerial issuance of a permit. Other uses may be permitted by conditional use or other discretionary permit, provided that the use is consistent with residential use.

(3) Density ranges for multifamily housing for which the minimum densities shall not be less than those deemed appropriate to accommodate housing for lower income households as set forth in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, and a density range for single-family attached or detached housing for which the minimum densities shall not be less than 10 units to the acre. A density range shall provide the minimum dwelling units per acre and the maximum dwelling units per acre.

(4) The development of housing is permitted, consistent with neighborhood building and use patterns and any applicable building codes.

(5) Limitations or moratoriums on residential use do not apply to any of the area, other than any limitation or moratorium imposed by court order.

(6) The area is not subject to any general age or other occupancy restrictions, except that the city, county, or city and county may allow for the development of specific projects exclusively for the elderly or the disabled or for assisted living.

(7) Housing units comply with all applicable federal, state, and local fair housing laws.

(8) The area of the proposed housing sustainability district does not exceed 15 percent of the total land area under the jurisdiction of the city, county, or city and county unless the department approves a larger area in furtherance of the purposes of this chapter.

(9) The total area of all housing sustainability districts within the city, county, or city and county does not exceed 30 percent of the total land area under the jurisdiction of the city, county, or city and county.

(10) The housing sustainability district ordinance provides for the manner of review by an approving authority, as designated by the ordinance, pursuant to Section 66205 and in accordance with the rules and regulations adopted by the department.

(11) Development projects in the area comply with the requirements of Section 66208, regarding the replacement of affordable housing units affected by the development.

(c) The city, county, or city and county may apply uniform development policies or standards that will apply to all projects within the housing sustainability district, including parking ordinances, public access ordinances, grading ordinances, hillside development ordinances, flood plain ordinances, habitat or conservation ordinances, view protection ordinances, and requirements for reducing greenhouse gas emissions.

(d) The city, county, or city and county may provide for mixed-use development within the housing sustainability district.

(e) An amendment or repeal of a housing sustainability district ordinance shall not become effective unless the department provides written approval to the city, county, or city and county. The city, county, or city and county may request approval of a proposed amendment or repeal by submitting a written request to the department. The department shall evaluate the proposed amendment or repeal for the effect of that amendment or repeal on the city's, county's, or city and county's housing element. If the department does not respond to a written request for amendment or repeal of an ordinance within 60 days of receipt of that request, the request shall be deemed approved.

(f) The housing sustainability district ordinance shall do all of the following:

(1) Provide for an approving authority to review permit applications for development within the housing sustainability district in accordance with Section 66205.

(2) (A) Subject to subparagraph (B), require that at least 20 percent of the residential units constructed within the housing sustainability district be affordable to very low, low-, and moderate-income households and subject to a recorded affordability restriction for at least 55 years. A development that is affordable to persons and families whose income exceeds the income limit for persons and families of moderate income shall include no less than 10 percent of the units for lower income households at affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, unless the city, county, or city and county has adopted a local ordinance that requires that a greater percentage of the units be for lower income households, in which case that ordinance shall apply.

(B) For a city, county, or city and county that includes its entire regional housing needs allocation pursuant to Section 65584 within the housing sustainability district, the percentages of the total units constructed or substantially rehabilitated within the housing sustainability district shall match the percentages in each income category of the city's, county's, or city and county's regional housing need allocation.

(C) This section does not expand or contract the authority of a local government to adopt an ordinance, charter amendment, general plan amendment, specific plan, resolution, or other land use policy or regulation requiring that any housing development contain a fixed percentage of affordable housing units.

(3) Specify that a project is not deemed to be for residential use if it is infeasible for actual use as a single or multifamily residence.

(4) Require that an applicant for a permit for a project within the housing sustainability district do the following, as applicable:

(A) Certify to the approving authority that either of the following is true, as applicable:

(i) That the entirety of the project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the project is not in its entirety a public work, that all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the approving authority approves the application, then for those portions of the project that are not a public work all of the following shall apply:

(I) The applicant shall include the prevailing wage requirement in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subclause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For projects for which any of the following conditions apply, certify to the approving authority that a skilled and trained workforce will be used to complete the project if the approving authority approves the project application:

(I) On and after January 1, 2018, until December 31, 2021, the project consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the project consists of 50 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the project consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the project consists of more than 50 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the project consists of more than 25 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the applicant has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the project.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the project.

(III) Except as provided in subclause (IV), the applicant shall provide to the approving authority, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the approving authority pursuant to this subclause is a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code is subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce is subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor

Commissioner within 18 months of completion of the project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) does not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a project within a housing sustainability district that is subject to approval by the approving authority is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(5) Provide that a project is not eligible for approval from the approving authority if it involved or involves a subdivision that is, or, notwithstanding this chapter, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless either of the following apply:

(A) The project has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (4).

(B) The project is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (4).

(6) Provide for relocation assistance for persons and families displaced from their residences due to development within the housing sustainability district.

(g) A housing sustainability district ordinance adopted pursuant to this section shall remain in effect for no more than 10 years, except that the city, county, or city and county may renew the housing sustainability district ordinance, for an additional period not exceeding 10 years, before the date upon which it would otherwise be repealed pursuant to this subdivision.

(h) This section shall not be construed to affect the authority of a city, county, or city and county to amend its zoning regulations pursuant to Chapter 4 (commencing with Section 65800), except to the extent that an amendment affects a housing sustainability district.

(i) The city, county, or city and county shall comply with Chapter 4.3 (commencing with Section 21155.10) of Division 13 of the Public Resources Code.

**SEC. 121.** Section 68514 of the Government Code is amended to read:

**68514.** (a) Beginning October 1, 2018, and annually thereafter, the Judicial Council shall report to the Department of Finance and to the Joint Legislative Budget Committee, the total amount of revenue collected in the prior fiscal year, by each court and county, from criminal fines and fees assessed related to infractions and misdemeanors. The report shall include, but not be limited to, the following information:

(1) Total nondelinquent revenue collected and the number of cases associated with those collections.

(2) Total delinquent revenue collected and the number of cases associated with those collections, as reported by each superior court and county pursuant to Section 1463.010 of the Penal Code.

(3) Total amount of fines and fees dismissed, discharged, or satisfied by means other than payment.

(4) A description of the collection activities used pursuant to Section 1463.007 of the Penal Code.

(5) The total amount collected per collection activity.

(6) The total number of cases by collection activity and the total number of individuals associated with those cases.

(7) Total administrative costs per collection activity.

(8) The percentage of fines or fees that are defaulted on.

(b) The Judicial Council shall separately list the information required in subdivision (a) for fines and fees assessed in a year before the current reporting year that had outstanding balances in the current reporting year.

(c) To the extent a court or county cannot provide the information listed in subdivisions (a) and (b), the Judicial Council shall notify the Department of Finance and the Joint Legislative Budget Committee and shall provide a plan for how to obtain this information in the future. The Department of Finance may approve alternate metrics if a court or county does not have this information.

**SEC. 122.** Section 68803 of the Government Code is amended to read:

**68803.** A sufficient sum shall be annually appropriated out of any funds in the State Treasury not otherwise appropriated for the expenses certified pursuant to Section 68802 and to defray the traveling expenses of the justices and officers of the Supreme Court. The money so appropriated is subject to the order of the Clerk/Executive Officer of the Supreme Court. He or she shall disburse the money on proper vouchers, and account for it in annual settlements with the Controller on the first Monday of December of each year.

**SEC. 123.** Section 69141 of the Government Code is amended to read:

**69141.** (a) Each court of appeal may appoint and employ during its pleasure a Clerk/Executive Officer of the Court of Appeal, and other phonographic reporters, assistants, secretaries, librarians, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Except as otherwise provided in this chapter, each appellate court may determine the duties and, subject to subdivision (b) of Section 19825 of the Government Code, fix and pay the compensation of all of its officers and employees.

(b) All salaries and expenses incurred under this section shall be paid from the funds appropriated for the use of appellate courts, when approved by order of the courts.

**SEC. 124.** Section 76000.10 of the Government Code is amended to read:

**76000.10.** (a) This section shall be known, and may be cited, as the Emergency Medical Air Transportation Act.

(b) For purposes of this section:

(1) "Department" means the State Department of Health Care Services.

(2) "Director" means the Director of Health Care Services.

(3) "Provider" means a provider of emergency medical air transportation services.

(4) "Rotary wing" means a type of aircraft, commonly referred to as a helicopter, that generates lift through the use of wings, known as rotor blades, that revolve around a mast.

(5) "Fixed wing" means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

(6) "Air mileage rate" means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

(c) (1) For purposes of implementing this section, a penalty of four dollars (\$4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision is in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, and the state court construction penalty pursuant to Section 70372 of this code, and to calculate the other additional penalties levied pursuant to this chapter.

(d) The county or the court that imposed the fine shall, in accordance with the procedures set out in Section 68101, transfer moneys collected pursuant to this section to the Treasurer for deposit into the Emergency Medical Air Transportation and Children's Coverage Fund, which is hereby established in the State Treasury. Notwithstanding Section 16305.7, the Emergency Medical Air Transportation and Children's Coverage Fund shall include interest and dividends earned on money in the fund. Any law that references the Emergency Medical Air Transportation Act Fund, as previously established by this subdivision, shall be construed to reference the Emergency Medical Air Transportation and Children's Coverage Fund, effective January 1, 2018.

(e) (1) The Emergency Medical Air Transportation and Children's Coverage Fund shall be administered by the State Department of Health Care Services. Moneys in the Emergency Medical Air Transportation and Children's Coverage Fund shall be made available, upon appropriation by the Legislature, to the department for any of the following purposes:

(A) For children's health care coverage.

(B) For emergency medical air transportation provider payments, as follows:

(i) For payment of the administrative costs of the department in administering emergency medical air transportation provider payments.

(ii) Twenty percent of the appropriated money remaining after payment of administrative costs pursuant to clause (i) shall be used to offset the state portion of the Medi-Cal reimbursement rate for emergency medical air transportation services.

(iii) Eighty percent of the appropriated money remaining after payment of administrative costs pursuant to clause (i) shall be used to augment emergency medical air transportation reimbursement payments made through the Medi-Cal program, as set forth in paragraphs (2) and (3).

(2) If money in the Emergency Medical Air Transportation and Children's Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), both of the following shall occur:

(A) The department shall seek to obtain federal matching funds by using the moneys in the Emergency Medical Air Transportation and Children's Coverage Fund for the purpose of augmenting Medi-Cal reimbursement paid to emergency medical air transportation providers.

(B) The director shall augment emergency medical air transportation provider payments in accordance with a federally approved reimbursement methodology. The director may seek federal approvals or waivers as may be necessary to implement this section and to obtain federal financial participation to the maximum extent possible for the payments under this section.

(3) (A) Upon appropriation by the Legislature, the department shall use moneys in the Emergency Medical Air Transportation and Children's Coverage Fund and any federal matching funds to do any of the following:

(i) Fund children's health care coverage.

(ii) Increase the Medi-Cal reimbursement for emergency medical air transportation services in an amount not to exceed normal and customary charges charged by the providers.

(B) Notwithstanding any other law, and pursuant to this section, if money in the Emergency Medical Air Transportation and Children's Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), the department shall increase the Medi-Cal reimbursement for emergency medical air transportation services if both of the following conditions are met:

(i) Moneys in the Emergency Medical Air Transportation and Children's Coverage Fund will cover the cost of increased payments pursuant to clause (iii) of subparagraph (B) of paragraph (1).

(ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency medical air transportation services increase.

(f) The assessment of penalties pursuant to this section shall terminate on January 1, 2020. Penalties assessed before January 1, 2020, shall continue to be collected, administered, and distributed pursuant to this section until exhausted or until June 30, 2021, whichever occurs first. On June 30, 2021, moneys remaining unexpended and unencumbered in the Emergency Medical Air Transportation and Children's Coverage Fund shall be transferred to the General Fund, to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement for emergency medical air transportation and related costs, generally, or funding children's health care coverage.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

**SEC. 125.** Section 84504.2 of the Government Code is amended to read:

**84504.2.** (a) A print advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color.

(2) The text shall be in an Arial equivalent type with a type size of at least 10 point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(3) The top contributors, if any, shall each be disclosed on a separate horizontal line, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area.

(4) Immediately below the text described in paragraph (3), committees subject to Section 84223 shall include the text "Funding Details At [insert Commission Internet Web site]." The text shall be in an Arial equivalent type with a type size of at least 10 point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(b) Notwithstanding paragraphs (2) and (4) of subdivision (a), the disclosures required by Sections 84502, 84503, and 84506.5 on a printed advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall be in Arial equivalent type with a total height of at least 5 percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average viewer. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

(c) Notwithstanding the definition of "top contributors" in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

**SEC. 126.** Section 84504.3 of the Government Code is amended to read:

**84504.3.** (a) An electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with both of the following:

(1) Include the text "Who funded this ad?" in a contrasting color and a font size that is easily readable by the average viewer.

(2) The text shall be a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(b) Notwithstanding subdivision (a), the text required by paragraph (1) of subdivision (a) is not required if including the language would be impracticable. In such circumstances the advertisement need only include a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5.

(c) Notwithstanding subdivisions (a) and (b), an Internet Web site paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(d) An Internet Web site that is hyperlinked as provided in paragraph (2) of subdivision (a) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(e) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclaimers in subdivision (a) shall comply with the disclaimer requirements for radio advertisements in Section 84504.

(f) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font on the committee's profile, landing page, or similar location and shall not be required to include the disclaimer required by subdivision (a) on each individual post, comment, or other similar communication.

(g) The disclaimer required by this section does not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

**SEC. 127.** Section 84504.5 of the Government Code is amended to read:

**84504.5.** An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the Internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of 30 seconds or less or for less than 10 seconds of a broadcast of 60 seconds or more.

(c) (1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

**SEC. 128.** Section 84602.3 of the Government Code is amended to read:

**84602.3.** The Secretary of State shall conspicuously post on his or her Internet Web site hyperlinks to the Internet Web site of any local government agency that contains publicly-disclosed campaign finance information. The Secretary of State shall update these hyperlinks no later than December 31 of each year.

**SEC. 129.** Section 100002 of the Government Code is amended to read:

**100002.** (a) (1) There is hereby created within state government the California Secure Choice Retirement Savings Investment Board, which shall consist of nine members, with the Treasurer serving as chair, as follows:

(A) The Treasurer.

(B) The Director of Finance, or his or her designee.

(C) The Controller.

(D) An individual with retirement savings and investment expertise appointed by the Senate Committee on Rules.

(E) An employee representative appointed by the Speaker of the Assembly.

(F) A small business representative appointed by the Governor.

(G) A public member appointed by the Governor.

(H) Two additional members appointed by the Governor.

(2) Members of the board appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall serve at the pleasure of the appointing authority.

(b) All members of the board shall serve without compensation. Members of the board shall be reimbursed for necessary travel expenses incurred in connection with their board duties.

(c) A board member, program administrator, and other staff of the board shall not do any of the following:

(1) Directly or indirectly have any interest in the making of any investment made for the program, or in the gains or profits accruing from any investment made for the program.

(2) Borrow any funds or deposits of the trust, or use those funds or deposits in any manner, for himself or herself or as an agent or partner of others.

(3) Become an endorser, surety, or obligor on investments by the board.

(d) The board and the program administrator and staff, including contracted administrators and consultants, shall discharge their duties as fiduciaries with respect to the trust solely in the interest of the program participants as follows:

(1) For the exclusive purposes of providing benefits to program participants and defraying reasonable expenses of administering the program.

(2) By investing with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(e) The board, subject to its authority and fiduciary duty, shall design and implement the California Secure Choice Retirement Savings Program.

(1) (A) For up to three years following the initial implementation of the program, the board shall establish managed accounts invested in United States Treasuries, myRAs, or similar investments.

(B) The board shall have the authority to provide for investment in myRAs, provided that, in accordance with the myRA provisions, myRA contributions and investment returns shall only be used for myRA investments and to make distributions to, or for the benefit of, participants and shall not be used to pay any costs of administration.

(2) (A) During the period described in paragraph (1), the board shall develop and implement an investment policy that defines the program's investment objectives and shall establish policies and procedures enabling investment objectives to be met in a prudent manner. The board shall seek to minimize participant fees and strive to implement program features that provide maximum possible income replacement balanced with appropriate risk in an IRA-based environment. The policy shall describe the investment options available to holders of individual savings accounts established as part of the program. Investment options may encompass a range of risk and return opportunities and allow for a rate of return commensurate with an appropriate level of risk to meet the investment objectives stated in the policy.

(B) The board may also develop investment option recommendations that address risk-sharing and smoothing of market losses and gains. Investment option recommendations may include, but are not limited to, the creation of a reserve fund or the establishment of customized investment products. Implementation of an investment option recommendation pursuant to this subparagraph shall be contingent upon subsequent approval by the Legislature.

(3) After the period described in paragraph (1) has expired, the board shall annually prepare and adopt a written statement of investment policy that includes a risk management and oversight program. The board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

(4) The risk management and oversight program shall include an effective risk management system to monitor the risk levels of the California Secure Choice Retirement Savings Program investment portfolio and ensure that the risks taken are prudent and properly managed. The program shall be managed to provide an integrated process for overall risk management on both a consolidated and disaggregated basis, and to monitor investment returns as well as risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards.

(f) The board shall approve an investment management entity or entities, the costs of which shall be paid out of funds held in the trust and shall not be attributed to the administrative costs of the board in operating the trust. Not later than 30 days after the close of each month, the board shall place on file for public inspection during business hours a report with respect to investments made pursuant to this section and a report of deposits in financial institutions.

**SEC. 130.** Section 1336.3 of the Health and Safety Code is amended to read:

**1336.3.** (a) In the event of an emergency, such as earthquake, fire, or flood that threatens the safety or welfare of the residents in a facility, the facility shall do all of the following:

(1) Notify, as soon as possible, family members, guardians of residents, the State Department of Public Health, and the ombudsperson for that facility of the emergency and the steps that the facility plans to take for the welfare of the residents.

(2) Provide the services set forth in subdivision (a) of Section 1336.2 if further relocation of a resident is necessary.

(3) Undertake prompt medical assessment of, and provide counseling as needed to, residents whose further relocation is not necessary but who have suffered or may suffer adverse health consequences due to the emergency or sudden transfer.

(b) (1) Each facility shall adopt a written emergency preparedness plan and shall make that plan available to the State Department of Public Health upon request. The plan shall comply with the requirements in this section and the State Department

of Public Health's Contingency Plan for Licensed Facilities. The facility, as part of its emergency preparedness planning, shall seek to enter into reciprocal or other agreements with nearby facilities and hospitals to provide temporary care for residents in the event of an emergency. The facility shall report to the State Department of Public Health the name of any facility or hospital that fails or refuses to enter into such agreements and the stated reason for that failure or refusal.

(2) Section 1336.2 does not apply in the event of transfers made pursuant to an emergency preparedness plan. In any event, however, the facility shall provide the notice and services described in subdivisions (a) to (c), inclusive, of Section 1336.2.

**SEC. 131.** Section 1367.04 of the Health and Safety Code is amended to read:

**1367.04.** (a) Not later than January 1, 2006, the department shall develop and adopt regulations establishing standards and requirements to provide health care service plan enrollees with appropriate access to language assistance in obtaining health care services.

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health care service plan with an enrollment of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment as required by this subdivision and any additional languages when 0.75 percent or 15,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(ii) A health care service plan with an enrollment of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment as required by this subdivision and any additional languages when 1 percent or 6,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(iii) A health care service plan with an enrollment of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility and participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

(vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C) (i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision. A health care service plan subject to the requirements in Section 1367.042 shall also include with the documents a written notice of the availability of interpretation services in the top 15 languages spoken by limited-English-proficient (LEP) individuals in California as determined by the State Department of Health Care Services.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health care service plans advise limited-English-proficient enrollees of the availability of interpreter services.

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(3) Requirements for surveying the language preferences and needs assessments of health care service plan enrollees within one year of the effective date of the regulations that permit health care service plans to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, subscriber newsletters, or other mailings. Health care service plans shall update the needs assessment, demographic profile, and language translation requirements every three years.

(4) Requirements for individual enrollee access to interpretation services that include the following:

(A) A requirement that an interpreter meets, at a minimum, all of the following qualifications:

(i) Demonstrated proficiency in both English and the target language.

(ii) Knowledge in both English and the target language of health care terminology and concepts relevant to health care delivery systems.

(iii) Adheres to generally accepted interpreter ethics principles, including client confidentiality.

(B) A requirement that the enrollee with limited English proficiency shall not be required to provide his or her own interpreter or rely on a staff member who does not meet the qualifications described in subparagraph (A) to communicate directly with the limited-English-proficient enrollee.

(C) A requirement that the enrollee with limited English proficiency shall not be required to rely on an adult or minor child accompanying the enrollee to interpret or facilitate communication except under either of the following circumstances:

(i) In an emergency, as described in Section 1317.1, if a qualified interpreter is not immediately available for the enrollee with limited English proficiency.

(ii) If the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

(c) In developing the regulations, standards, and requirements, the department shall consider the following:

(1) Publications and standards issued by federal agencies, such as the Culturally and Linguistically Appropriate Services (CLAS) in Health Care issued by the United States Department of Health and Human Services Office of Minority Health in

December 2000, and the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)).

(2) Other cultural and linguistic requirements under state programs, such as Medi-Cal Managed Care Policy Letters, cultural and linguistic requirements imposed by the State Department of Health Care Services on health care service plans that contract to provide Medi-Cal managed care services, and cultural and linguistic requirements imposed by the Managed Risk Medical Insurance Board on health care service plans that contract to provide services in the Healthy Families Program.

(3) Standards adopted by other states pertaining to language assistance requirements for health care service plans.

(4) Standards established by California or nationally recognized accrediting, certifying, or licensing organizations and medical and health care interpreter professional associations regarding interpretation services.

(5) Publications, guidelines, reports, and recommendations issued by state agencies or advisory committees, such as the report card to the public on the comparative performance of plans and reports on cultural and linguistic services issued by the Office of Patient Advocate and the report to the Legislature from the Task Force on Culturally and Linguistically Competent Physicians and Dentists established by former Section 852 of the Business and Professions Code.

(6) Examples of best practices relating to language assistance services by health care providers and health care service plans, including existing practices.

(7) Information gathered from complaints to the HMO Helpline and consumer assistance centers regarding language assistance services.

(8) The cost of compliance and the availability of translation and interpretation services and professionals.

(9) Flexibility to accommodate variations in plan networks and method of service delivery. The department shall allow for health care service plan flexibility in determining compliance with the standards for oral and written interpretation services.

(d) The department shall work to ensure that the biennial reports required by this section, and the data collected for those reports, are consistent with reports required by government-sponsored programs and do not require duplicative or conflicting data collection or reporting.

(e) The department shall seek public input from a wide range of interested parties through advisory bodies established by the director.

(f) A contract between a health care service plan and a health care provider shall require compliance with the standards developed under this section. In furtherance of this section, the contract shall require providers to cooperate with the plan by providing any information necessary to assess compliance.

(g) The department shall report biennially to the Legislature and advisory bodies established by the director regarding plan compliance with the standards, including results of compliance audits made in conjunction with other audits and reviews. The reported information shall also be included in the publication required under subparagraph (B) of paragraph (1) of subdivision (b) of Section 136000. The department shall also utilize the reported information to make recommendations for changes that further enhance standards pursuant to this section. The department may also delay or otherwise phase-in implementation of standards and requirements in recognition of costs and availability of translation and interpretation services and professionals.

(h) (1) Except for contracts with the State Department of Health Care Services Medi-Cal program, the standards developed under this section shall be considered the minimum required for compliance.

(2) The regulations shall provide that a health plan is in compliance if the plan is required to meet the same or similar standards by the Medi-Cal program, either by contract or state law, if the standards provide as much access to cultural and linguistic services as the standards established by this section for an equal or higher number of enrollees and therefore meet or exceed the standards of the regulations established pursuant to this section, and the department determines that the health care service plan is in compliance with the standards required by the Medi-Cal program. To meet this requirement, the department shall not be required to perform individual audits. The department shall, to the extent feasible, rely on audits, reports, or other oversight and enforcement methods used by the State Department of Health Care Services.

(3) The determination pursuant to paragraph (2) shall only apply to the enrollees covered by the Medi-Cal program standards. A health care service plan subject to paragraph (2) shall comply with the standards established by this section with regard to enrollees not covered by the Medi-Cal program.

(i) This section does not prohibit a government purchaser from including in their contracts additional translation or interpretation requirements, to meet linguistic or cultural needs, beyond those set forth pursuant to this section.

**SEC. 132.** Section 1367.042 of the Health and Safety Code is amended to read:

**1367.042.** (a) A health care service plan shall notify enrollees and members of the public of all of the following information:

(1) The availability of language assistance services, including oral interpretation and translated written materials, free of charge and in a timely manner pursuant to Section 1367.04, and how to access these services. This information shall be available in the top 15 languages spoken by limited-English-proficient individuals in California as determined by the State Department of Health Care Services.

(2) The availability of appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when those aids and services are necessary to ensure an equal opportunity to participate for individuals with disabilities.

(3) The health plan does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, marital status, gender, gender identity, sexual orientation, age, or disability.

(4) The availability of the grievance procedure described in Section 1368, how to file a grievance, including the name of the plan representative and the telephone number, address, and email address of the plan representative who may be contacted about the grievance, and how to submit the grievance to the department for review after completing the grievance process or participating in the process for at least 30 days.

(5) How to file a discrimination complaint with the United States Department of Health and Human Services Office for Civil Rights if there is a concern of discrimination based on race, color, national origin, age, disability, or sex.

(b) The information required to be provided pursuant to this section shall be provided to an enrollee with individual coverage upon initial enrollment and annually thereafter upon renewal, and to enrollees and subscribers with group coverage upon initial enrollment and annually thereafter upon renewal. A health care service plan may include this information with other materials sent to the enrollee. The information shall also be provided in the following manner:

(1) In a conspicuously visible location in the evidence of coverage.

(2) At least annually, in or with newsletters, outreach, or other materials that are routinely disseminated to the plan's enrollees.

(3) On the Internet Web site published and maintained by the health care service plan, in a manner that allows enrollees, prospective enrollees, and members of the public to easily locate the information.

(c) (1) A specialized health care plan that is not a covered entity, as defined in Section 92.4 of Title 45 of the Code of Federal Regulations, subject to Section 1557 of the federal Patient Protection and Affordable Care Act (42 U.S.C. Sec. 18116) may request an exemption from the requirements under this section.

(2) The department shall not grant an exemption under this subdivision to a specialized health care service plan that arranges for mental health benefits, except for employee assistance program plans.

(3) The department shall provide information on its Internet Web site about any exemptions granted under this subdivision.

(d) This section does not apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

**SEC. 133.** Section 1373.96 of the Health and Safety Code is amended to read:

**1373.96.** (a) A health care service plan shall, at the request of an enrollee, provide for the completion of covered services as set forth in this section by a terminated provider or by a nonparticipating provider.

(b) (1) The completion of covered services shall be provided by a terminated provider to an enrollee who, at the time of the contract's termination, was receiving services from that provider for one of the conditions described in subdivision (c).

(2) The completion of covered services shall be provided by a nonparticipating provider to a newly covered enrollee who, at the time his or her coverage became effective, was receiving services from that provider for one of the conditions described in subdivision (c).

(c) The health care service plan shall provide for the completion of covered services for the following conditions:

(1) An acute condition. An acute condition is a medical condition that involves a sudden onset of symptoms due to an illness, injury, or other medical problem that requires prompt medical attention and that has a limited duration. Completion of covered

services shall be provided for the duration of the acute condition.

(2) A serious chronic condition. A serious chronic condition is a medical condition due to a disease, illness, or other medical problem or medical disorder that is serious in nature and that persists without full cure or worsens over an extended period of time or requires ongoing treatment to maintain remission or prevent deterioration. Completion of covered services shall be provided for a period of time necessary to complete a course of treatment and to arrange for a safe transfer to another provider, as determined by the health care service plan in consultation with the enrollee and the terminated provider or nonparticipating provider and consistent with good professional practice. Completion of covered services under this paragraph shall not exceed 12 months from the contract termination date or 12 months from the effective date of coverage for a newly covered enrollee.

(3) A pregnancy. A pregnancy is the three trimesters of pregnancy and the immediate postpartum period. Completion of covered services shall be provided for the duration of the pregnancy.

(4) A terminal illness. A terminal illness is an incurable or irreversible condition that has a high probability of causing death within one year or less. Completion of covered services shall be provided for the duration of a terminal illness, which may exceed 12 months from the contract termination date or 12 months from the effective date of coverage for a new enrollee.

(5) The care of a newborn child between birth and age 36 months. Completion of covered services under this paragraph shall not exceed 12 months from the contract termination date or 12 months from the effective date of coverage for a newly covered enrollee.

(6) Performance of a surgery or other procedure that is authorized by the plan as part of a documented course of treatment and has been recommended and documented by the provider to occur within 180 days of the contract's termination date or within 180 days of the effective date of coverage for a newly covered enrollee.

(d) (1) The plan may require the terminated provider whose services are continued beyond the contract termination date pursuant to this section to agree in writing to be subject to the same contractual terms and conditions that were imposed upon the provider before termination, including, but not limited to, credentialing, hospital privileging, utilization review, peer review, and quality assurance requirements. If the terminated provider does not agree to comply or does not comply with these contractual terms and conditions, the plan is not required to continue the provider's services beyond the contract termination date.

(2) Unless otherwise agreed upon by the terminated provider and the plan or by the individual provider and the provider group, the services rendered pursuant to this section shall be compensated at rates and methods of payment similar to those used by the plan or the provider group for currently contracting providers providing similar services who are not capitated and who are practicing in the same or a similar geographic area as the terminated provider. Neither the plan nor the provider group is required to continue the services of a terminated provider if the provider does not accept the payment rates provided for in this paragraph.

(e) (1) The plan may require a nonparticipating provider whose services are continued pursuant to this section for a newly covered enrollee to agree in writing to be subject to the same contractual terms and conditions that are imposed upon currently contracting providers providing similar services who are not capitated and who are practicing in the same or a similar geographic area as the nonparticipating provider, including, but not limited to, credentialing, hospital privileging, utilization review, peer review, and quality assurance requirements. If the nonparticipating provider does not agree to comply or does not comply with these contractual terms and conditions, the plan is not required to continue the provider's services.

(2) Unless otherwise agreed upon by the nonparticipating provider and the plan or by the nonparticipating provider and the provider group, the services rendered pursuant to this section shall be compensated at rates and methods of payment similar to those used by the plan or the provider group for currently contracting providers providing similar services who are not capitated and who are practicing in the same or a similar geographic area as the nonparticipating provider. Neither the plan nor the provider group is required to continue the services of a nonparticipating provider if the provider does not accept the payment rates provided for in this paragraph.

(f) The amount of, and the requirement for payment of, copayments, deductibles, or other cost-sharing components during the period of completion of covered services with a terminated provider or a nonparticipating provider are the same as would be paid by the enrollee if receiving care from a provider currently contracting with or employed by the plan.

(g) If a plan delegates the responsibility of complying with this section to a provider group, the plan shall ensure that the requirements of this section are met.

(h) This section does not require a plan to provide for completion of covered services by a provider whose contract with the plan or provider group has been terminated or not renewed for reasons relating to a medical disciplinary cause or reason, as defined in paragraph (6) of subdivision (a) of Section 805 of the Business and Professions Code, or fraud or other criminal activity.

(i) This section does not require a plan to cover services or provide benefits that are not otherwise covered under the terms and conditions of the plan contract. Except as provided in subdivision (l), this section does not apply to a newly covered enrollee covered under an individual subscriber agreement who is undergoing a course of treatment on the effective date of his or her coverage for a condition described in subdivision (c).

(j) Except as provided in subdivision (l), this section does not apply to a newly covered enrollee who is offered an out-of-network option or to a newly covered enrollee who had the option to continue with his or her previous health plan or provider and instead voluntarily chose to change health plans.

(k) The provisions contained in this section are in addition to any other responsibilities of a health care service plan to provide continuity of care pursuant to this chapter. This section does not preclude a plan from providing continuity of care beyond the requirements of this section.

(l) (1) A health care service plan shall, at the request of a newly covered enrollee under an individual health care service plan contract, arrange for the completion of covered services as set forth in this section by a nonparticipating provider for one of the conditions described in subdivision (c) if the newly covered enrollee meets both of the following:

(A) The newly covered enrollee's prior coverage was terminated under paragraph (5) or (6) of subdivision (a) of Section 1365 or subdivision (d) or (e) of Section 10273.6 of the Insurance Code, which includes circumstances when a health benefit plan is withdrawn from any portion of a market.

(B) At the time his or her coverage became effective, the newly covered enrollee was receiving services from that provider for one of the conditions described in subdivision (c).

(2) The completion of covered services required to be provided under this subdivision apply to services rendered to the newly covered enrollee on and after the effective date of his or her new coverage.

(3) A violation of this subdivision does not constitute a crime under Section 1390.

(m) Notice as to the process by which an enrollee may request completion of covered services pursuant to this section shall be provided in every disclosure form as required under Section 1363 and in any evidence of coverage issued after January 1, 2018. A plan shall provide a written copy of this information to its contracting providers and provider groups. A plan shall also provide a copy to its enrollees upon request. Notice as to the availability of the right to request completion of covered services shall be part of, accompany, or be sent simultaneously with any termination of coverage notice sent in the circumstances described in subdivision (l).

(n) The following definitions apply for the purposes of this section:

(1) "Individual provider" means a person who is a licensee, as defined in Section 805 of the Business and Professions Code, or a person licensed under Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code.

(2) "Nonparticipating provider" means a provider who is not contracted with the enrollee's health care service plan to provide services under the enrollee's plan contract.

(3) "Provider" shall have the same meaning as set forth in subdivision (i) of Section 1345.

(4) "Provider group" means a medical group, independent practice association, or any other similar organization.

**SEC. 134.** Section 1569.699 of the Health and Safety Code is amended to read:

**1569.699.** (a) When approved by the person responsible for enforcement, as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or major neurocognitive disorder, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

(1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

(2) Automatic deactivation of the egress-control device upon loss of electrical power to any of the following:

(A) The egress-control device.

(B) The smoke-detection system.

(C) Exit illumination as required by Section 1013 of the California Building Standards Code.

(3) Be capable of being deactivated by a signal from a switch located in an approved location.

(4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72 N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement, as described in Section 13146, may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.

(5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.

(6) The unlatching shall not require more than one operation.

(7) (A) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING. THIS DOOR WILL OPEN IN \_\_\_\_ SECONDS. ALARM WILL SOUND.

(B) Sign letter shall be at least one inch (25mm) in height and shall have a stroke of not less than one-eighth inch (3.3mm).

(8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

(b) Grounds of residential care facilities for the elderly serving persons with Alzheimer's disease or major neurocognitive disorder may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.28 2) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1022 of the California Building Standards Code.

(c) Exit doors may be locked in residential care facilities for the elderly that meet the requirements for Group I, Division 3 occupancies under the California Building Standards Code and that care for people with major neurocognitive disorder.

(d) This section shall become inoperative on the date the California Building Standards Commission adopts regulations regarding secured perimeters in residential care facilities for the elderly, and, as of the January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that January 1, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEC. 135.** Section 1788 of the Health and Safety Code is amended to read:

**1788.** (a) A continuing care contract shall contain all of the following:

(1) The legal name and address of each provider.

(2) The name and address of the continuing care retirement community.

(3) The resident's name and the identity of the unit the resident will occupy.

(4) If there is a transferor other than the resident, the transferor shall be a party to the contract and the transferor's name and address shall be specified.

(5) If the provider has used the name of any charitable or religious or nonprofit organization in its title before January 1, 1979, and continues to use that name, and that organization is not responsible for the financial and contractual obligations of the provider or the obligations specified in the continuing care contract, the provider shall include in every continuing care contract a conspicuous statement that clearly informs the resident that the organization is not financially responsible.

(6) The date the continuing care contract is signed by the resident and, where applicable, any other transferor.

(7) The duration of the continuing care contract.

(8) A list of the services that will be made available to the resident as required to provide the appropriate level of care. The list of services shall include the services required as a condition for licensure as a residential care facility for the elderly, including all of the following:

(A) Regular observation of the resident's health status to ensure that his or her dietary needs, social needs, and needs for special services are satisfied.

(B) Safe and healthful living accommodations, including housekeeping services and utilities.

(C) Maintenance of house rules for the protection of residents.

(D) A planned activities program, which includes social and recreational activities appropriate to the interests and capabilities of the resident.

(E) Three balanced, nutritious meals and snacks made available daily, including special diets prescribed by a physician as a medical necessity.

(F) Assisted living services.

(G) Assistance with taking medications.

(H) Central storing and distribution of medications.

(I) Arrangements to meet health needs, including arranging transportation.

(9) An itemization of the services that are included in the monthly fee and the services that are available at an extra charge. The provider shall attach a current fee schedule to the continuing care contract. The schedule shall state that a provider is prohibited from charging the resident or his or her estate a monthly fee once a unit has been permanently vacated by the resident, unless the fee is part of an equity interest contract.

(10) The procedures and conditions under which a resident may be voluntarily and involuntarily transferred from a designated living unit. The transfer procedures, at a minimum, shall include provisions addressing all of the following circumstances under which a transfer may be authorized:

(A) A continuing care retirement community may transfer a resident under the following conditions, taking into account the appropriateness and necessity of the transfer and the goal of promoting resident independence:

(i) The resident is nonambulatory. The definition of "nonambulatory," as provided in Section 13131, shall either be stated in full in the continuing care contract or be cited. If Section 13131 is cited, a copy of the statute shall be made available to the resident, either as an attachment to the continuing care contract or by specifying that it will be provided upon request. If a nonambulatory resident occupies a room that has a fire clearance for nonambulatory residents, transfer shall not be necessary.

(ii) The resident develops a physical or mental condition that is detrimental to or endangers the health, safety, or well-being of the resident or another person.

(iii) The resident's condition or needs require the resident's transfer to an assisted living care unit or skilled nursing facility, because the level of care required by the resident exceeds that which may be appropriately provided in the living unit.

(iv) The resident's condition or needs require the resident's transfer to a nursing facility, hospital, or other facility, and the provider has no facilities available to provide that level of care.

(B) Before the continuing care retirement community transfers a resident under any of the conditions set forth in subparagraph (A), the community shall satisfy all of the following requirements:

(i) Involve the resident and the resident's responsible person, as defined in paragraph (6) of subdivision (r) of Section 87101 of Title 22 of the California Code of Regulations, and upon the resident's or responsible person's request, family members, or the resident's physician or other appropriate health professional, in the assessment process that forms the basis for the level of care transfer decision by the provider. The provider shall offer an explanation of the assessment process, which shall include, but not be limited to, an evaluation of the physical and cognitive capacities of the resident. An assessment tool or tools, including scoring and evaluating criteria, shall be used in the determination of the appropriateness of the transfer. The provider shall make copies of the completed assessment to share with the resident or the resident's responsible person.

(ii) Prior to sending a formal notification of transfer, the provider shall conduct a care conference with the resident and the resident's responsible person, and, upon the resident's or responsible person's request, family members, and the resident's health care professionals, to explain the reasons for transfer.

(iii) Notify the resident and the resident's responsible person of the reasons for the transfer in writing.

(iv) Notwithstanding any other provision of this subparagraph, if the resident does not have impairment of cognitive abilities, the resident may request that his or her responsible person not be involved in the transfer process.

(v) The notice of transfer shall be made at least 30 days before the transfer is expected to occur, except when the health or safety of the resident or other residents is in danger, or the transfer is required by the resident's urgent medical needs. Under those circumstances, the written notice shall be made as soon as practicable before the transfer.

(vi) The written notice shall contain the reasons for the transfer, the effective date, the designated level of care or location to which the resident will be transferred, a statement of the resident's right to a review of the transfer decision at a care conference, as provided for in subparagraph (C), and for disputed transfer decisions, the right to review by the Continuing Care Contracts Branch of the State Department of Social Services, as provided for in subparagraph (D). The notice shall also contain the name, address, and telephone number of the department's Continuing Care Contracts Branch.

(vii) The continuing care retirement community shall provide sufficient preparation and orientation to the resident to ensure a safe and orderly transfer and to minimize trauma.

(viii) For disputed transfer decisions, the provider shall provide documentation of the resident's medical reports, other documents showing the resident's current mental and physical function, the prognosis, and the expected duration of relevant conditions, if applicable. The documentation shall include an explanation of how the criteria set out in subparagraph (A) are met. The provider shall make copies of the completed report to share with the resident or the resident's responsible person.

(C) The resident has the right to review and dispute the transfer decision at a subsequent care conference that shall include the resident, the resident's responsible person, and, upon the resident's or responsible person's request, family members, the resident's physician or other appropriate health care professional, and members of the provider's interdisciplinary team. The local ombudsperson may also be included in the care conference, upon the request of the resident, the resident's responsible person, or the provider.

(D) For disputed transfer decisions, the resident or the resident's responsible person has the right to a prompt and timely review of the transfer process by the Continuing Care Contracts Branch of the State Department of Social Services. The branch of the department shall provide a description of the steps a provider took and the factors a provider considered in deciding to transfer a resident, including the assessment tool or tools and the scoring and evaluating criteria used by the provider to justify the transfer.

(E) The decision of the department's Continuing Care Contracts Branch shall be in writing and shall determine whether the provider failed to comply with the transfer process pursuant to subparagraphs (A) to (C), inclusive, and whether the transfer is appropriate and necessary. Pending the decision of the Continuing Care Contracts Branch, the provider shall specify any additional care the provider believes is necessary in order for the resident to remain in his or her unit. The resident may be required to pay for the extra care, as provided in the contract.

(F) Transfer of a second resident when a shared accommodation arrangement is terminated.

(11) Provisions describing any changes in the resident's monthly fee and any changes in the entrance fee refund payable to the resident that will occur if the resident transfers from any unit, including, but not limited to, terminating his or her contract after 18 months of residential temporary relocation, as defined in paragraph (9) of subdivision (r) of Section 1771. Unless the fee is part of an equity interest contract, a provider is prohibited from charging the resident or his or her estate a monthly fee once a unit has been permanently vacated by the resident.

(12) The provider's continuing obligations, if any, in the event a resident is transferred from the continuing care retirement community to another facility.

(13) The provider's obligations, if any, to resume care upon the resident's return after a transfer from the continuing care retirement community.

(14) The provider's obligations to provide services to the resident while the resident is absent from the continuing care retirement community.

(15) The conditions under which the resident must permanently release his or her living unit.

(16) If real or personal properties are transferred in lieu of cash, a statement specifying each item's value at the time of transfer, and how the value was ascertained.

(A) An itemized receipt that includes the information described above is acceptable if incorporated as a part of the continuing care contract.

(B) When real property is or will be transferred, the continuing care contract shall include a statement that the deed or other instrument of conveyance shall specify that the real property is conveyed pursuant to a continuing care contract and may be subject to rescission by the transferor within 90 days from the date that the resident first occupies the residential unit.

(C) The failure to comply with this paragraph shall not affect the validity of title to real property transferred pursuant to this chapter.

(17) The amount of the entrance fee.

(18) In the event two parties have jointly paid the entrance fee or other payment that allows them to occupy the unit, the continuing care contract shall describe how any refund of entrance fees is allocated.

(19) The amount of any processing fee.

(20) The amount of any monthly care fee.

(21) For continuing care contracts that require a monthly care fee or other periodic payment, the continuing care contract shall include the following:

(A) A statement that the occupancy and use of the accommodations by the resident is contingent upon the regular payment of the fee.

(B) The regular rate of payment agreed upon (per day, week, or month).

(C) A provision specifying whether payment will be made in advance or after services have been provided.

(D) A provision specifying the provider will adjust monthly care fees for the resident's support, maintenance, board, or lodging, when a resident requires medical attention while away from the continuing care retirement community.

(E) A provision specifying whether a credit or allowance will be given to a resident who is absent from the continuing care retirement community or from meals. This provision shall also state, when applicable, that the credit may be permitted at the discretion or by special permission of the provider.

(F) A statement of billing practices, procedures, and timelines. A provider shall allow a minimum of 14 days between the date a bill is sent and the date payment is due. A charge for a late payment may only be assessed if the amount and any condition for the penalty is stated on the bill.

(G) A statement that the provider is prohibited from charging the resident or his or her estate a monthly fee once a unit has been permanently vacated by the resident, unless the fee is part of an equity interest contract.

(22) All continuing care contracts that include monthly care fees shall address changes in monthly care fees by including either of the following provisions:

(A) For prepaid continuing care contracts, which include monthly care fees, one of the following methods:

(i) Fees shall not be subject to change during the lifetime of the agreement.

(ii) Fees shall not be increased by more than a specified number of dollars in any one year and not more than a specified number of dollars during the lifetime of the agreement.

(iii) Fees shall not be increased in excess of a specified percentage over the preceding year and not more than a specified percentage during the lifetime of the agreement.

(B) For monthly fee continuing care contracts, except prepaid contracts, changes in monthly care fees shall be based on projected costs, prior year per capita costs, and economic indicators.

(23) A provision requiring that the provider give written notice to the resident at least 30 days in advance of any change in the resident's monthly care fees or in the price or scope of any component of care or other services.

(24) A provision indicating whether the resident's rights under the continuing care contract include any proprietary interests in the assets of the provider or in the continuing care retirement community, or both. Any statement in a contract concerning an ownership interest shall appear in a large-sized font or print.

- (25) If the continuing care retirement community property is encumbered by a security interest that is senior to any claims the residents may have to enforce continuing care contracts, a provision shall advise the residents that any claims they may have under the continuing care contract are subordinate to the rights of the secured lender. For equity projects, the continuing care contract shall specify the type and extent of the equity interest and whether any entity holds a security interest.
- (26) Notice that the living units are part of a continuing care retirement community that is licensed as a residential care facility for the elderly and, as a result, any duly authorized agent of the department may, upon proper identification and upon stating the purpose of his or her visit, enter and inspect the entire premises at any time, without advance notice.
- (27) A conspicuous statement, in at least 10-point boldface type in immediate proximity to the space reserved for the signatures of the resident and, if applicable, the transferor, that provides as follows: "You, the resident or transferor, may cancel the transaction without cause at any time within 90 days from the date you first occupy your living unit. See the attached notice of cancellation form for an explanation of this right."
- (28) Notice that during the cancellation period, the continuing care contract may be canceled upon 30 days' written notice by the provider without cause, or that the provider waives this right.
- (29) The terms and conditions under which the continuing care contract may be terminated after the cancellation period by either party, including any health or financial conditions.
- (30) A statement that, after the cancellation period, a provider may unilaterally terminate the continuing care contract only if the provider has good and sufficient cause.
- (A) Any continuing care contract containing a clause that provides for a continuing care contract to be terminated for "just cause," "good cause," or other similar provision, shall also include a provision that none of the following activities by the resident, or on behalf of the resident, constitutes "just cause," "good cause," or otherwise activates the termination provision:
- (i) Filing or lodging a formal complaint with the department or other appropriate authority.
  - (ii) Participation in an organization or affiliation of residents, or other similar lawful activity.
- (B) The provision required by this paragraph shall also state that the provider shall not discriminate or retaliate in any manner against any resident of a continuing care retirement community for contacting the department, or any other state, county, or city agency, or any elected or appointed government official to file a complaint or for any other reason, or for participation in a residents' organization or association.
- (C) This paragraph does not diminish the provider's ability to terminate the continuing care contract for good and sufficient cause.
- (31) A statement that at least 90 days' written notice to the resident is required for a unilateral termination of the continuing care contract by the provider.
- (32) A statement concerning the length of notice that a resident is required to give the provider to voluntarily terminate the continuing care contract after the cancellation period.
- (33) The policy or terms for refunding or repaying a lump sum of any portion of the entrance fee, in the event of cancellation, termination, or death. Every continuing care contract that provides for a refund or repaying a lump sum of all or a part of the entrance fee shall also do all of the following:
- (A) Specify the amount, if any, the resident has paid or will pay for upgrades, special features, or modifications to the resident's unit.
- (B) State that if the continuing care contract is canceled or terminated by the provider, the provider shall do both of the following:
- (i) Amortize the specified amount at the same rate as the resident's entrance fee.
  - (ii) Refund the unamortized balance to the resident at the same time the provider pays the resident's entrance fee refund.
- (C) State that the resident has a right to terminate his or her contract after 18 months of residential temporary relocation, as defined in paragraph (9) of subdivision (r) of Section 1771. Provisions for refunds due to cancellation pursuant to this subparagraph shall be set forth in the contract.

(D) State the provider shall make a good-faith effort to reoccupy or resell a unit for which a lump-sum payment is conditioned upon resale of the unit. No later than July 1, 2017, a provider shall provide notice to all current residents with contracts applicable to this subparagraph regarding the statement required by this subparagraph as a clarification of the resident's existing contract.

(E) For all contracts with a repayment of all or a portion of the entrance fee conditioned upon the resale of the unit, the provider shall state the average and longest amount of time that it has taken to resell a unit within the last five calendar years.

(34) The following notice at the bottom of the signatory page:

"NOTICE" (date)

"This is a continuing care contract as defined by paragraph (8) of subdivision (c) or subdivision (l) of Section 1771 of the California Health and Safety Code. This continuing care contract form has been approved by the State Department of Social Services as required by subdivision (b) of Section 1787 of the California Health and Safety Code. The basis for this approval was a determination that (provider name) has submitted a contract that complies with the minimum statutory requirements applicable to continuing care contracts. The department does not approve or disapprove any of the financial or health care coverage provisions in this contract. Approval by the department is NOT a guaranty of performance or an endorsement of any continuing care contract provisions. Prospective transferors and residents are strongly encouraged to carefully consider the benefits and risks of this continuing care contract and to seek financial and legal advice before signing."

(35) The provider shall not attempt to absolve itself in the continuing care contract from liability for its negligence by any statement to that effect, and shall include the following statement in the contract: "Nothing in this continuing care contract limits either the provider's obligation to provide adequate care and supervision for the resident or any liability on the part of the provider which may result from the provider's failure to provide this care and supervision."

(36) Provisions describing how the provider will proceed in the event of a closure, including an explanation of how the provider will comply with Sections 1793.80, 1793.81, 1793.82, and 1793.83.

(b) A life care contract shall also provide that:

(1) All levels of care, including acute care and physicians' and surgeons' services, will be provided to a resident.

(2) Care will be provided for the duration of the resident's life unless the life care contract is canceled or terminated by the provider during the cancellation period or after the cancellation period for good cause.

(3) A comprehensive continuum of care will be provided to the resident, including skilled nursing, in a facility under the ownership and supervision of the provider on, or adjacent to, the continuing care retirement community premises.

(4) Monthly care fees will not be changed based on the resident's level of care or service.

(5) A resident who becomes financially unable to pay his or her monthly care fees shall be subsidized provided the resident's financial need does not arise from action by the resident to divest the resident of his or her assets.

(c) Continuing care contracts may include provisions that do any of the following:

(1) Subsidize a resident who becomes financially unable to pay for his or her monthly care fees at some future date. If a continuing care contract provides for subsidizing a resident, it may also provide for any of the following:

(A) The resident shall apply for any public assistance or other aid for which he or she is eligible and that the provider may apply for assistance on behalf of the resident.

(B) The provider's decision shall be final and conclusive regarding any adjustments to be made or any action to be taken regarding any charitable consideration extended to any of its residents.

(C) The provider is entitled to payment for the actual costs of care out of any property acquired by the resident subsequent to any adjustment extended to the resident under this paragraph, or from any other property of the resident that the resident failed to disclose.

(D) The provider may pay the monthly premium of the resident's health insurance coverage under Medicare to ensure that those payments will be made.

(E) The provider may receive an assignment from the resident of the right to apply for and to receive the benefits, for and on behalf of the resident.

(F) The provider is not responsible for the costs of furnishing the resident with any services, supplies, and medication, when reimbursement is reasonably available from any governmental agency, or any private insurance.

(G) Any refund due to the resident at the termination of the continuing care contract may be offset by any prior subsidy to the resident by the provider.

(2) Limit responsibility for costs associated with the treatment or medication of an ailment or illness existing before the date of admission. In these cases, the medical or surgical exceptions, as disclosed by the medical entrance examination, shall be listed in the continuing care contract or in a medical report attached to and made a part of the continuing care contract.

(3) Identify legal remedies that may be available to the provider if the resident makes any material misrepresentation or omission pertaining to the resident's assets or health.

(4) Restrict transfer or assignments of the resident's rights and privileges under a continuing care contract due to the personal nature of the continuing care contract.

(5) Protect the provider's ability to waive a resident's breach of the terms or provisions of the continuing care contract in specific instances without relinquishing its right to insist upon full compliance by the resident with all terms or provisions in the contract.

(6) Provide that the resident shall reimburse the provider for any uninsured loss or damage to the resident's unit, beyond normal wear and tear, resulting from the resident's carelessness or negligence.

(7) Provide that the resident agrees to observe the off-limit areas of the continuing care retirement community designated by the provider for safety reasons. The provider shall not include any provision in a continuing care contract that absolves the provider from liability for its negligence.

(8) Provide for the subrogation to the provider of the resident's rights in the case of injury to a resident caused by the acts or omissions of a third party, or for the assignment of the resident's recovery or benefits in this case to the provider, to the extent of the value of the goods and services furnished by the provider to or on behalf of the resident as a result of the injury.

(9) Provide for a lien on any judgment, settlement, or recovery for any additional expense incurred by the provider in caring for the resident as a result of injury.

(10) Require the resident's cooperation and assistance in the diligent prosecution of any claim or action against any third party.

(11) Provide for the appointment of a conservator or guardian by a court with jurisdiction in the event a resident becomes unable to handle his or her personal or financial affairs.

(12) Allow a provider, whose property is tax exempt, to charge the resident, on a pro rata basis, property taxes, or in-lieu taxes, that the provider is required to pay.

(13) Make any other provision approved by the department.

(d) A copy of the resident's rights as described in Section 1771.7 shall be attached to every continuing care contract.

(e) A copy of the current audited financial statement of the provider shall be attached to every continuing care contract. For a provider whose current audited financial statement does not accurately reflect the financial ability of the provider to fulfill the continuing care contract obligations, the financial statement attached to the continuing care contract shall include all of the following:

(1) A disclosure that the reserve requirement has not yet been determined or met, and that entrance fees will not be held in escrow.

(2) A disclosure that the ability to provide the services promised in the continuing care contract will depend on successful compliance with the approved financial plan.

(3) A copy of the approved financial plan for meeting the reserve requirements.

(4) Any other supplemental statements or attachments necessary to accurately represent the provider's financial ability to fulfill its continuing care contract obligations.

(f) A schedule of the average monthly care fees charged to residents for each type of residential living unit for each of the five years preceding execution of the continuing care contract shall be attached to every continuing care contract. The provider shall update this schedule annually at the end of each fiscal year. If the continuing care retirement community has not been in existence for five years, the information shall be provided for each of the years the continuing care retirement community has been in existence.

(g) If any continuing care contract provides for a health insurance policy for the benefit of the resident, the provider shall attach to the continuing care contract a binder complying with Sections 382 and 382.5 of the Insurance Code.

(h) The provider shall attach to every continuing care contract a completed form in duplicate, captioned "Notice of Cancellation." The notice shall be easily detachable, and shall contain, in at least 10-point boldface type, the following statement:

"NOTICE OF CANCELLATION" (date)

Your first date of occupancy under this contract \_\_\_\_\_

is: \_\_\_\_\_

"You may cancel this transaction, without any penalty within 90 calendar days from the above date.

If you cancel, any property transferred, any payments made by you under the contract, and any negotiable instrument executed by you will be returned within 14 calendar days after making possession of the living unit available to the provider. Any security interest arising out of the transaction will be canceled.

If you cancel, you are obligated to pay a reasonable processing fee to cover costs and to pay for the reasonable value of the services received by you from the provider up to the date you canceled or made available to the provider the possession of any living unit delivered to you under this contract, whichever is later.

If you cancel, you must return possession of any living unit delivered to you under this contract to the provider in substantially the same condition as when you took possession.

Possession of the living unit must be made available to the provider within 20 calendar days of your notice of cancellation. If you fail to make the possession of any living unit available to the provider, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to \_\_\_\_\_

(Name of provider)

at \_\_\_\_\_

(Address of provider's place of business)

not later than midnight of \_\_\_\_\_ (date).

I hereby cancel this  
transaction

(Resident's or  
Transferor's signature)"

**SEC. 136.** Section 7000 of the Health and Safety Code is amended to read:

**7000.** The definitions in this chapter apply to this division, Division 8 (commencing with Section 8100) and Division 102 (commencing with Section 102100) of this code and Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code.

**SEC. 137.** Section 7103 of the Health and Safety Code is amended to read:

**7103.** (a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.

(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

**SEC. 138.** Section 7117 of the Health and Safety Code, as amended by Section 67 of Chapter 846 of the Statutes of 2017, is amended to read:

**7117.** (a) Cremated remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains shall be removed from their container before the remains are scattered at sea.

(b) Any person who scatters at sea, either from a boat or from the air, any cremated human remains shall, file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. This section does not allow the scattering of cremated human remains from a bridge or pier.

(d) Notwithstanding any other provision of this code, the cremated remains of a deceased person may be scattered at sea as provided in this section and Section 103060.

(e) This section shall remain in effect only until July 1, 2020, and as of that date is repealed.

**SEC. 139.** Section 7117 of the Health and Safety Code, as added by Section 68 of Chapter 846 of the Statutes of 2017, is amended to read:

**7117.** (a) Cremated remains or hydrolyzed human remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains or hydrolyzed human remains shall be removed from their container before the remains are scattered at sea.

(b) Any person who scatters at sea, either from a boat or from the air, any cremated human remains or hydrolyzed human remains shall file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains or hydrolyzed human remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. This section does not allow the scattering of cremated human remains or hydrolyzed human remains from a bridge or pier.

(d) Notwithstanding any other provision of this code, the cremated remains or hydrolyzed human remains of a deceased person may be scattered at sea as provided in this section and Section 103060.

(e) This section shall become operative on July 1, 2020.

**SEC. 140.** Section 11361.5 of the Health and Safety Code is amended to read:

**11361.5.** (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. A court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and those records shall also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether the defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision does not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall commence from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction

occurring before January 1, 1976, or records of any arrest not followed by a conviction occurring before that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5, of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring before January 1, 1976, for any of the following offenses:

(1) A violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking cannabis, in violation of Section 11364, as it existed before January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which cannabis is being unlawfully smoked or used, in violation of Section 11365, as it existed before January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of cannabis, in violation of Section 11550, as it existed before January 1, 1976, or a statutory predecessor thereof.

(A) A person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

(B) The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

(C) Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

**SEC. 141.** Section 11362.4 of the Health and Safety Code is amended to read:

**11362.4.** (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one-hundred-dollar (\$100) fine; provided, however, that persons under 18 years of age shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community

service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraph (2), (3), or (4) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine, unless that activity is otherwise permitted by state and local law; provided, however, that a person under 18 years of age shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 is subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 is subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under 18 years of age who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under paragraph (1) of subdivision (b) of Section 11357.

(g) (1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that the program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under 18 years of age shall be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

**SEC. 142.** Section 25507 of the Health and Safety Code is amended to read:

**25507.** (a) Except as provided in this article, a business shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted pursuant to Section 25503 if the business meets any of the following conditions at any unified program facility:

(1) (A) It handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is equal to, or greater than, 55 gallons for materials that are liquids, 500 pounds for solids, or 200 cubic feet for compressed gas, as defined in subdivision (i) of Section 25501. The physical state and quantity present of mixtures shall be determined by the physical state of the mixture as a whole, not individual components, at standard temperature and pressure.

(B) For the purpose of this section, for compressed gases, if a hazardous material or mixture is determined to exceed threshold quantities at standard temperature and pressure, it shall be reported in the physical state at which it is stored. If the material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations, all amounts shall be reported in pounds.

(2) It is required to submit chemical inventory information pursuant to Section 11022 of Title 42 of the United States Code.

(3) It handles at any one time during the reporting year an amount of a hazardous material that is equal to, or greater than the threshold planning quantity, under both of the following conditions:

(A) The hazardous material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations.

(B) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(4) (A) It handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, except as provided in subparagraph (B).

(B) If the hazardous material handled by the facility is a paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources Recycling and Recovery pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code, the business is required to establish and implement a business plan only if the business handles at any one time during the reporting year a total weight of 10,000 pounds of solid hazardous materials or a total volume of 1,000 gallons of liquid hazardous materials.

(5) It handles at any one time during the reporting year cryogenic, refrigerated, or compressed gas in a quantity of 1,000 cubic feet or more at standard temperature and pressure, if the gas is any of the following:

(A) Classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations only for hazards due to simple asphyxiation or the release of pressure.

(B) Oxygen, nitrogen, and nitrous oxide ordinarily maintained by a physician, dentist, podiatrist, veterinarian, pharmacist, or emergency medical service provider at his or her place of business.

(C) Carbon dioxide.

(D) Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems.

(E) Gases used in closed fire suppression systems.

(6) It handles a radioactive material at any one time during the reporting year in quantities for which an emergency plan is required to be considered pursuant to Schedule C (Section 30.72) of Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1) of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

(7) It handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (1).

(8) (A) It handles a combustible metal or metal alloy that is defined as a pyrophoric or water-reactive material in the California Fire Code, in any quantity in raw stock, scrap, or powder form at any time during the reporting year.

(B) It handles a combustible metal, or metal alloy, that is defined as a combustible dust, flammable solid, or magnesium in the California Fire Code, in a quantity in raw stock, scrap, or powder form at any one time during the reporting year that is equal to, or greater than, 100 pounds.

(C) It handles a combustible metal, or metal alloy, that poses an explosive potential, when in molten form, in a quantity at any one time during the reporting year that is equal to, or greater than, 500 pounds.

(b) The following hazardous materials are exempt from the requirements of this section:

(1) Refrigerant gases, other than ammonia or flammable gas in a closed cooling system, that are used for comfort or space cooling for computer rooms.

(2) Compressed air in cylinders, bottles, and tanks used by fire departments and other emergency response organizations for the purpose of emergency response and safety.

(3) (A) Lubricating oil, if the total volume of each type of lubricating oil handled at a facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

(B) For purposes of this paragraph, "lubricating oil" means oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. "Lubricating oil" does not include used oil, as defined in subdivision (a) of Section 25250.1.

(4) Both of the following, if the aggregate storage capacity of oil at the facility is less than 1,320 gallons and a spill prevention control and countermeasure plan is not required pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(A) Fluid in a hydraulic system.

(B) Oil-filled electrical equipment that is not contiguous to an electric facility.

(5) Hazardous material contained solely in a consumer product, handled at, and found in, a retail establishment and intended for sale to, and for the use by, the public. The exemption provided for in this paragraph shall not apply to a consumer product

handled at the facility which manufactures that product, or a separate warehouse or distribution center of that facility, or where a product is dispensed on the retail premises.

(6) Propane that is for on-premises use, storage, or both, in an amount not to exceed 500 gallons, that is for the sole purpose of cooking, heating employee work areas, and heating water within that facility, unless the unified program agency finds, and provides notice to the business handling the propane, that the handling of the on-premises propane requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns.

(c) In addition to the authority specified in subdivision (e), the governing body of the unified program agency may, in exceptional circumstances, following notice and public hearing, exempt a hazardous material specified in subdivision (n) of Section 25501 from Section 25506, if it is found that the hazardous material would not pose a present or potential danger to the environment or to human health and safety if the hazardous material was released into the environment. The unified program agency shall send a notice to the office and the secretary within 15 days from the effective date of any exemption granted pursuant to this subdivision.

(d) The unified program agency, upon application by a handler, may exempt the handler, under conditions that the unified program agency determines to be proper, from any portion of the requirements to establish and maintain a business plan, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment, or affect the ability of the unified program agency and emergency response personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(e) The unified program agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(f) The unified program agency shall adopt procedures to provide for public input when approving applications submitted pursuant to subdivisions (d) and (e).

**SEC. 143.** Section 42402 of the Health and Safety Code is amended to read:

**42402.** (a) Except as provided in Sections 42402.1, 42402.2, 42402.3, and 42402.4, any person who violates this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than five thousand dollars (\$5,000).

(b) (1) A person who violates any provision of this part, any order issued pursuant to Section 42316, or any rule, regulation, permit or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than ten thousand dollars (\$10,000).

(2) (A) If a civil penalty in excess of five thousand dollars (\$5,000) for each day in which a violation occurs is sought, there is no liability under this subdivision if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act that was not the result of intentional conduct or negligent conduct.

(B) Subparagraph (A) does not apply to a violation of federally enforceable requirements that occur at a Title V source in a district in which a Title V permit program has been fully approved.

(C) Subparagraph (A) does not apply to a person who is determined to have violated an annual facility emissions cap established pursuant to a market-based incentive program adopted by a district pursuant to subdivision (b) of Section 39616.

(c) A person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in subdivision (d) of Section 42400, to the health and safety of a considerable number of persons or the public, is liable for a civil penalty of not more than fifteen thousand dollars (\$15,000).

(d) Each day during any portion of which a violation occurs is a separate offense.

**SEC. 144.** Section 44361 of the Health and Safety Code is amended to read:

**44361.** (a) Each health risk assessment shall be submitted to the district. The district shall make the health risk assessment available for public review, upon request. After preliminary review of the emissions impact and modeling data, the district shall submit the health risk assessment to the Office of Environmental Health Hazard Assessment for review and, within 180 days of

receiving the health risk assessment, the office shall submit to the district its comments on the data and findings relating to health effects. The district shall consult with the state board as necessary to adequately evaluate the emissions impact and modeling data contained within the risk assessment.

(b) For the purposes of complying with this section, the Office of Environmental Health Hazard Assessment may select a qualified independent contractor to review the data and findings relating to health effects. The office shall not select an independent contractor to review a specific health risk assessment who may have a conflict of interest with regard to the review of that health risk assessment. Any review by an independent contractor shall comply with the following requirements:

(1) Be performed in a manner consistent with guidelines provided by the office.

(2) Be reviewed by the office for accuracy and completeness.

(3) Be submitted by the office to the district in accordance with this section.

(c) The district shall reimburse the Office of Environmental Health Hazard Assessment or the qualified independent contractor designated by the office pursuant to subdivision (b), within 45 days of its request, for its actual costs incurred in reviewing a health risk assessment pursuant to this section.

(d) If a district requests the Office of Environmental Health Hazard Assessment to consult with the district concerning any requirement of this part, the district shall reimburse the office, within 45 days of its request, for the costs incurred in the consultation.

(e) Upon designation of the high priority facilities, as specified in subdivision (a) of Section 44360, the Office of Environmental Health Hazard Assessment shall evaluate the staffing requirements of this section and may submit recommendations to the Legislature, as appropriate, concerning the maximum number of health risk assessments to be reviewed each year pursuant to this section.

**SEC. 145.** Section 50710.1 of the Health and Safety Code is amended to read:

**50710.1.** (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center that are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, notwithstanding any other provision of law, commencing with the 2006 growing season, the department shall not increase rents for residents of any facility assisted by the Office of Migrant Services to a level that exceeds 30 percent of the average annualized household incomes of residents of the facility without specific legislative authorization. Before approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation.

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter may establish a reserve account comprised of the excess funds provided through the annual operating contract received from the department if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

(c) A migrant farm labor center governed by this chapter may be operated for an extended period before or after the standard 180-day period, as further provided in paragraph (8) below, after approval by the department, provided that all of the following conditions are satisfied:

(1) No additional subsidies provided by the department are used for the operation or administration of the migrant farm labor center during the extended occupancy period except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods.

(2) Rents are not to be increased above the rents charged during the standard 180-day occupancy period unless the department finds that an increase is necessary to cover the difference between reasonable operating costs necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph (1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that otherwise would be made available to the center to subsidize rents during an extended occupancy period.

(3) (A) In no event shall the rent during the extended occupancy period exceed the average daily operating cost of the center, less any subsidy funds available pursuant to paragraph (1) or (2). With respect to an extended occupancy beyond the standard 180-day period, households representing at least 25 percent of the units in the center shall have indicated their desire and intention to remain in residency by signing a petition to the local entity to keep the center open for an extended period at rents that are the same or higher than rents during the regular period of occupancy. Each household shall receive a clear bilingual notice describing the extended occupancy options attached to the lease.

(B) The Legislature finds and declares that because the number of residents may be substantially reduced during the extended occupancy period, a rent increase may be necessary to cover operating costs. It is the intent of the Legislature that the public sector, private sector, and farmworkers should each play an important role in ensuring the financial viability of this important source of needed housing.

(4) An extended occupancy period is requested by an entity operating the migrant farm labor center and received by the department no earlier than 30 days and no later than 15 days before the center's scheduled opening or closing date. The department shall notify the entity and petitioning residents of the final decision no later than seven days before the center's scheduled opening or closing date. During the extended occupancy period, occupancy shall be limited to migrant farmworkers and their families who resided or intended to reside at a migrant center during the regular period of occupancy.

(5) Before approving or denying an early opening or an extension and establishing the rents for the extended occupancy period, both of which shall be within the sole discretion of the department, the department shall take into consideration all of the following factors:

(A) The structural and physical condition of the center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the center during the extended occupancy period.

(B) Whether local approvals are required, and whether there are competing demands for the use of the center's facilities.

(C) Whether there is adequate documentation that there is a need for residents of the migrant center to continue work in the area, as confirmed by the local entity.

(D) The climate during the extended occupancy period.

(E) The amount of subsidy funds available that can be allocated to each center to subsidize rents below the operating costs and the cost of operating each center during the extended occupancy period.

(F) The extended occupancy period is deemed necessary for the health and safety of the migrant farmworkers and their families.

(G) Other relevant factors affecting the migrant farmworkers and their families and the operation of the centers.

(6) The rents collected during the extended occupancy period shall be remitted to the department. However, based on financial records to the satisfaction of the department, the department may reduce the amount to be remitted by an amount it determines the local entity has expended during the extended occupancy period that is not being reimbursed by department funds.

(7) The occupancy during the extended occupancy period represents a new tenancy and is not subject to existing and statutory and regulatory limitations governing rents. Before the beginning of the extended occupancy period, residents shall be provided at least two days' advance written notice of any rent increase and of the expected length of the extended occupancy period, including the scheduled date of the beginning of the extended occupancy period and closure of the center. Before being eligible for residency during the extended occupancy period, residents shall sign rental documents deemed necessary by the department.

(8) Notwithstanding anything to the contrary contained in this section, the standard 180-day occupancy period combined with any extended occupancy periods shall not exceed a cumulative operating period of 275 days in any calendar year.

(d) (1) The Legislature finds and declares that variable annual climates and changing agricultural techniques create an inability to accurately predict the end of a harvest season for the purposes of housing migrant farmworkers and their families. Because of these factors, in any part of this state, and in any specific year, one or more migrant farmworker housing centers governed by this chapter need to open early or remain open up to a total of 275 days to allow the residents to provide critical assistance to growers in harvesting crops while also fulfilling work expectations that encouraged them to migrate to the areas of the centers. In addition, if the centers close prematurely or open late, the migrant farmworkers often must remain or reside in the areas to work. During this time they will not be able to obtain decent, safe, and affordable housing and the health and safety of their families and the surrounding community will be threatened.

(2) The Legislature therefore finds and declares that, for the purposes of any public or private right, obligation, or authorization related to the use of property and improvements thereon as a 180-day migrant center, an extended use of any housing center governed by this chapter pursuant to this section is deemed to be the same as the 180-day use generally authorized by this chapter.

(e) Because of the presumed income levels of the occupants of migrant farm labor centers, an entity operating a migrant farm labor center shall be deemed eligible for the California Alternative Rates for Energy program established pursuant to Sections 382 and 739.1 of the Public Utilities Code. Any savings from a reduction in energy rates shall be passed on to the occupants of the migrant farm labor center.

**SEC. 146.** Section 100851 of the Health and Safety Code is amended to read:

**100851.** (a) An application for TNI accreditation or renewal of TNI accreditation shall be denied by the accrediting body for any of the following reasons:

- (1) Failure to submit all information necessary to determine the laboratory's eligibility for its accreditation or continued compliance with this section or regulations adopted thereunder.
- (2) Failure of the laboratory staff to meet TNI standards for personnel requirements. These qualifications may include education, training, and experience requirements.
- (3) Failure to successfully analyze and report proficiency testing samples.
- (4) Failure to respond to a deficiency report from the onsite assessment with a corrective action report within 30 calendar days of the receipt of the report.
- (5) Failure to implement the corrective actions detailed in the corrective action report within the specified amount of time.
- (6) Misrepresentation of any material fact pertinent to receiving or maintaining TNI accreditation.

(b) The TNI-recognized accrediting body may suspend the accreditation of a TNI-accredited laboratory, in whole or in part, for failure to correct the deficiencies, within a specified amount of time, as identified in the onsite assessment. The laboratory shall retain those areas of accreditation where it continues to meet the requirements of the accrediting body. A suspended TNI-accredited laboratory shall not be required to reapply for accreditation if the causes for suspension are corrected within six months.

(c) The TNI-approved accrediting body shall suspend a TNI accreditation, in whole or in part for the following reasons:

- (1) Failure to complete proficiency testing studies.
- (2) Failure to maintain a history of at least two successful, out of the most recent three, proficiency testing studies for each affected accreditation field of testing, subgroup, or analyte for which the laboratory is accredited.
- (3) Failure to successfully analyze and report proficiency testing sample results pursuant to TNI standards.
- (4) Failure to submit an acceptable corrective action report in response to a deficiency report and failure to implement corrective action related to deficiencies found during laboratory assessments within the required time period, as required by the TNI standards.
- (5) Failure to notify the accrediting body of any changes in key accreditation criteria, as required by TNI standards.
- (6) Failure to perform all accredited tests in accordance with TNI standards.
- (7) Failure to meet all applicable quality system requirements in TNI standards.

(d) A suspended laboratory shall not be required to reapply for TNI accreditation if the causes for suspension are corrected within six months. A suspended laboratory shall not continue to analyze samples for the affected fields of testing for which it holds accreditation. A suspended laboratory shall remain suspended without a right to appeal if the suspension is caused by unacceptable proficiency testing sample results.

(e) If a laboratory is unable to correct the reason for suspension, the laboratory's accreditation shall be revoked in whole or in part.

(f) A laboratory's accreditation shall not be suspended without the right to due process, as set forth in TNI standards.

**SEC. 147.** Section 100852 of the Health and Safety Code is amended to read:

**100852.** (a) Notwithstanding any other law, the state board may issue a certificate to the owner of a laboratory in a field of testing or method adopted by the federal Environmental Protection Agency pursuant to Part 136 of Title 40 of the Code of Federal Regulations, as amended September 11, 1992, as published in the Federal Register (57 FR 41830), or Part 141 of Title 40 of the Code of Federal Regulations, as amended July 17, 1992, as published in the Federal Register (57 FR 31776), and as subsequently amended and published in the Code of Federal Regulations.

(b) As a TNI-recognized accrediting body, the state board shall accept performance-based measurement system methods, when mandated methods are indicated. A fee, as specified in regulations adopted by the state board, may be charged for the review of each performance-based measurement system method.

(c) Notwithstanding any other law, the state board shall not be required to meet the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code in order to issue a certificate pursuant to subdivision (a).

**SEC. 148.** Section 103055 of the Health and Safety Code, as added by Section 71 of Chapter 846 of the Statutes of 2017, is amended to read:

**103055.** (a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition that, in all cases, shall specify any one of the following:

(1) The name of the cemetery where the remains shall be interred.

(2) Burial at sea as provided in Section 7117.

(3) The address or description of the place where remains shall be buried or scattered.

(4) The address of the location where the cremated remains or hydrolyzed human remains will be kept, as provided in Section 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this part relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the disposition of the body shall be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers.

(c) This section shall become operative on July 1, 2020.

**SEC. 149.** Section 103780 of the Health and Safety Code is amended to read:

**103780.** (a) A person, except as provided in subdivision (b), who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies a certificate of birth, fetal death, or death, or marriage license, or a record established by this part is guilty of a misdemeanor.

(b) A licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or a unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies a certificate of death, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

**SEC. 150.** Section 111175 of the Health and Safety Code is amended to read:

**111175.** In addition to the requirements of Section 111170, if a bottler, distributor, water hauler, retail water facility operator, or vending machine operator provides information in the labeling or advertising stating or implying that this water is of a specific water type (for example, "spring water") or treated in a specific manner (for example, "purified"), the type or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the definitions established in Section 165.110 of Title 21 of the Code of Federal Regulations, or, if not defined in that section, with the following criteria:

(1) "Mineralized water" means bottled or vended water that meets the requirements of "mineral water" except that the water contains added minerals.

(2) "Natural water" means bottled or vended spring, artesian well, or well water that is unmodified by mineral addition or deletion, except "natural water" may be filtered and shall be sanitized with ozone or an equivalent disinfection process and treated to reduce the concentration of any substance that exceeds safety standards established by the department.

(3) "Naturally sparkling water" means bottled water or vended water with a carbon dioxide content from the same source as the water. "Sparkling," "carbonated," or "carbonation added" means bottled water or vended water that contains carbon dioxide.

(4) Notwithstanding any other provision of this section, water from a public water system that is unprocessed by the bottler or vendor shall be in compliance with Section 165.110(a)(3)(ii) of Title 21 of the Code of Federal Regulations.

**SEC. 151.** Section 111190 of the Health and Safety Code is amended to read:

**111190.** (a) A bottled water, as defined in Section 111070, with natural or added carbonation, may be prepared with added flavors, extracts, essences, or fruit juice concentrates derived from a spice or fruit and comprising less than 1 percent by weight of the final product. The final product shall not contain sweeteners, or additives other than the flavors, extracts, essences, or fruit juice concentrates and carbon dioxide and shall be designated on labels and in advertising as follows:

(1) The common or usual name of the characterizing flavor shall accompany the designation of the bottled water product type as defined in subdivision (b) of Section 111170.

(2) The product may be designated as "natural" only if it meets the requirements for the designation as defined in paragraphs (2) and (3) of subdivision (a) of Section 111175, and naturally derived flavors, extracts, or essences are used.

(b) Products labeled pursuant to this section shall comply with all other provisions of this article. Products with one type or one source of bottled water that are labeled pursuant to this section shall not be blended with water that is not bottled water or that is of another bottled water type.

**SEC. 152.** Section 116277 of the Health and Safety Code is amended to read:

**116277.** (a) (1) A community water system that serves a schoolsite of a local educational agency with a building constructed before January 1, 2010, on that schoolsite shall test for lead in the potable water system of the schoolsite on or before July 1, 2019.

(2) The community water system shall report its findings to the schoolsite within 10 business days after the community water system receives the results from the testing laboratory or within two business days if it is found that the schoolsite's lead level exceeds 15 parts per billion.

(3) If the lead level exceeds 15 parts per billion, the community water system shall also test a water sample from the point in which the schoolsite connects to the community water system's supply network to determine the lead level of the water entering the schoolsite from the community water system's water supply network.

(b) (1) A local educational agency shall allow the community water system access to each of the local educational agency's schoolsites that are subject to subdivision (a) to conduct testing.

(2) If the lead level exceeds 15 parts per billion, the local educational agency shall notify the parents and guardians of the pupils who attend the schoolsite or preschool where the elevated lead levels are found.

(c) (1) If lead levels exceed 15 parts per billion, the local educational agency shall take immediate steps to make inoperable and shut down from use all fountains and faucets where the excess lead levels may exist. Additional testing may be required to determine if all or just some of the school's fountains and faucets are required to be shut down.

(2) Each local educational agency shall work with the schoolsites within its service area to ensure that a potable source of drinking water is provided for pupils at each schoolsite where fountains or faucets have been shut down due to elevated lead levels. Providing a potable source of drinking water may include, but is not limited to, replacing any pipes or fixtures that are contributing to the elevated lead levels, providing onsite water filtration, or providing bottled water as a short-term remedy.

(d) Each community water system, in cooperation with the appropriate corresponding local educational agency, shall prepare a sampling plan for each schoolsite where lead sampling is required under subdivision (a). The community water system and the local educational agency may request assistance from the state board or any local health agency responsible for regulating community water systems in developing the plan.

(e) This section does not apply to a schoolsite that is subject to any of the following:

(1) The schoolsite was constructed or modernized after January 1, 2010.

(2) The local educational agency of the schoolsite is currently permitted as a public water system and is currently required to test for lead in the potable water system.

(3) The local educational agency completed lead testing of the potable water system after January 1, 2009, and posts information about the lead testing on the local educational agency's public Internet Web site, including, at a minimum, identifying any schoolsite where the level of lead in drinking water exceeds 15 parts per billion.

(4) The local educational agency has requested testing from its community water system consistent with the requirements of this section.

(f) For purposes of this section, the following definitions apply:

(1) "Local educational agency" means a school district, county office of education, or charter school located in a public facility.

(2) "Potable water system" means water fountains and faucets used for drinking or preparing food.

(g) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

**SEC. 153.** Section 116625 of the Health and Safety Code is amended to read:

**116625.** (a) The state board, after providing notice to the permittee and opportunity for a hearing, may suspend or revoke any permit issued pursuant to this chapter if the state board determines pursuant to the hearing that the permittee is not complying with the permit, this chapter, or any regulation, standard, or order issued or adopted thereunder, or that the permittee has made a false statement or representation on any application, record, or report maintained or submitted for purposes of compliance with this chapter. If the permittee does not request a hearing within the period specified in the notice, the state board may suspend or revoke the permit without a hearing. If the permittee submits a timely request for a hearing, the hearing shall be before the state board or a member of the state board, in accordance with Section 183 of the Water Code and the rules for adjudicative proceedings adopted under Section 185 of the Water Code. If the permit at issue has been temporarily suspended pursuant to subdivision (b), the notice shall be provided within 15 days of the effective date of the temporary suspension order. The commencement of the hearing under this subdivision shall be as soon as practicable, but no later than 60 days after the effective date of the temporary suspension order, unless the state board grants an extension of the 60 day period upon request of the permittee.

(b) The state board may temporarily suspend any permit issued pursuant to this chapter before any hearing when the action is necessary to prevent an imminent or substantial danger to health. The state board shall notify the permittee of the temporary suspension and the effective date of the temporary suspension and, at the same time, notify the permittee that a hearing has been scheduled. The hearing shall be held as soon as possible, but not later than 15 days after the effective date of the temporary suspension unless the state board grants an extension of the 15-day period upon request of the permittee, and shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing under subdivision (a). The hearing shall be conducted under the rules for adjudicative proceedings adopted by the state board under Section 185 of the Water Code. The temporary suspension shall remain in effect until the hearing under this subdivision is completed and the state board has made a final determination on the temporary suspension, which shall be made within 15 days after the completion of the hearing unless the state board grants an extension of the 15-day period upon request of the permittee. If the determination is not transmitted within 15 days after the hearing is completed, or any extension of this period requested by the permittee, the temporary suspension shall be of no further effect. Dissolution of the temporary suspension does not deprive the state board of jurisdiction to proceed with a hearing on the merits under subdivision (a).

**SEC. 154.** Section 1063.2 of the Insurance Code is amended to read:

**1063.2.** (a) The association shall pay and discharge covered claims and, in connection therewith, pay for or furnish loss adjustment services and defenses of claimants when required by policy provisions. It may do so either directly by itself or through a servicing facility or through a contract for reinsurance and assumption of liabilities by one or more member insurers or through a contract with the liquidator, upon terms satisfactory to the association and to the liquidator, under which payments on covered claims would be made by the liquidator using funds provided by the association. Alternatively, the association may, with the express approval of the commissioner, reinsure with, or transfer liabilities to, a California admitted and authorized reinsurer or other reinsurer approved by the commissioner to limit or eliminate adverse development, to stabilize or limit the need for assessments, or to reduce its potential ultimate liability for covered claims, provided the association retains the ultimate responsibility to the policyholder or beneficiary for payment of claims covered by the reinsurance agreement. A reinsurance agreement or transfer of liabilities shall be paid for using the association's available funds from one of its accounts and shall not be charged to administrative expense or allocated to any liquidation estate. The payment and discharge of covered claims shall be undertaken by the association, either directly or through an authorized third-party administrator. Recoveries from a reinsurance

agreement or transfer of liabilities shall solely be the property of the association, shall not inure to the benefit of any liquidation estate, and shall be paid to the association account from which the payment for the reinsurance or transfer of liabilities was made.

(b) (1) The association shall be a party in interest in all proceedings involving a covered claim, and shall have the same rights as the insolvent insurer would have had if not in liquidation, including, but not limited to, the right to all of the following:

(A) Appear, defend, and appeal a claim in a court of competent jurisdiction.

(B) Receive notice of, investigate, adjust, compromise, settle, and pay a covered claim.

(C) Investigate, handle, and deny a noncovered claim.

(2) The association shall have no cause of action against the insureds of the insolvent insurer for any sums it has paid out, except as provided by this article.

(3) Paragraph (2) does not limit the association's right to pursue unpaid reimbursements owed by an employer pursuant to a workers' compensation insurance policy with a deductible if the employer was obligated to reimburse the insurer for benefits payments and related expenses paid by the insurer or the association from a special deposit or from other association funds pursuant to the terms of the policy and related agreements.

(c) (1) If damages against uninsured motorists are recoverable by the claimant from his or her own insurer, the applicable limits of the uninsured motorist coverage shall be a credit against a covered claim payable under this article. A person having a claim that may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured, except that if it is a first-party claim for damage to property with a permanent location, he or she shall seek recovery first from the association of the permanent location of the property, and if it is a workers' compensation claim, he or she shall seek recovery first from the association of the residence of the claimant. A recovery under this article shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent. A member insurer may recover in subrogation from the association only one-half of any amount paid by that insurer under uninsured motorist coverage for bodily injury or wrongful death (and nothing for a payment for anything else), in those cases where the injured person insured by such an insurer has proceeded under his or her uninsured motorist coverage on the ground that the tortfeasor is uninsured as a result of the insolvency of his or her liability insurer (an insolvent insurer as defined in this article), provided that the member insurer shall waive all rights of subrogation against the tortfeasor. An amount paid a claimant in excess of the amount authorized by this section may be recovered by action, or other proceeding, brought by the association.

(2) A claimant having collision coverage on a loss that is covered by the insolvent company's liability policy shall first proceed against his or her collision carrier. That claimant or the collision carrier, if it is a member of the association, does not have the right to sue or continue a suit against the insured of the insolvent insurance company for that collision damage.

(d) The association shall have the right to recover from any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this article the amount of any covered claim and allocated claims expense paid on behalf of that person pursuant to this article.

(e) A person having a claim or legal right of recovery under any governmental insurance or guaranty program that is also a covered claim, shall be required to first exhaust his or her right under the program. An amount payable on a covered claim shall be reduced by the amount of any recovery under the program.

(f) "Covered claims" for unearned premium by lenders under insurance premium finance agreements as defined in Section 673 shall be computed as of the earliest cancellation date of the policy pursuant to Section 673.

(g) "Covered claims" shall not include any judgments against or obligations or liabilities of the insolvent insurer or the commissioner, as liquidator, or otherwise resulting from alleged or proven torts, nor shall any default judgment or stipulated judgment against the insolvent insurer, or against the insured of the insolvent insurer, be binding against the association.

(h) "Covered claims" shall not include any loss adjustment expenses, including adjustment fees and expenses, attorney's fees and expenses, court costs, interest, and bond premiums, incurred before the appointment of a liquidator.

**SEC. 155.** Section 10133.8 of the Insurance Code is amended to read:

**10133.8.** (a) The commissioner shall, on or before January 1, 2006, promulgate regulations applicable to all individual and group policies of health insurance establishing standards and requirements to provide insureds with appropriate access to translated materials and language assistance in obtaining covered benefits. A health insurer that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its population for purposes of subparagraph (A) of paragraph (3) of subdivision (b). An insurer that chooses to separate its Healthy Families Program enrollment from the remainder of its population shall treat the Healthy Families Program population separately for

purposes of determining whether subparagraph (A) of paragraph (3) of subdivision (b) is applicable and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (3) of subdivision (b).

(b) The regulations described in subdivision (a) shall include the following:

(1) A requirement to conduct an assessment of the needs of the insured group, pursuant to this subdivision.

(2) Requirements for surveying the language preferences and assessment of linguistic needs of insureds within one year of the effective date of the regulations that permit health insurers to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, newsletters, or other mailings. Health insurers shall update the linguistic needs assessment, demographic profile, and language translation requirements every three years. However, the regulations may provide that the surveys and assessments by insurers of supplemental insurance products may be conducted less frequently than three years if the commissioner determines that the results are unlikely to affect the translation requirements.

(3) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health insurer with an insured population of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment pursuant to paragraph (2) of subdivision (b) and any additional languages when 0.75 percent or 15,000 of the insured population, whichever number is less, indicates in the needs assessment pursuant to paragraph (2) of subdivision (b) a preference for written materials in that language.

(ii) A health insurer with an insured population of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment pursuant to paragraph (2) of subdivision (b) and any additional languages when 1 percent or 6,000 of the insured population, whichever number is less, indicates in the needs assessment pursuant to paragraph (2) of subdivision (b) a preference for written materials in that language.

(iii) A health insurer with an insured population of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the insured population, whichever number is less, indicates in the needs assessment pursuant to paragraph (2) of subdivision (b) a preference for written materials in that language.

(B) Specification of vital documents produced by the insurer that are required to be translated. The specification of vital documents shall not exceed that of the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility or participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, the right to file a complaint or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to insureds.

(vi) Translated documents shall not include an insurer's explanation of benefits or similar claim processing information that are sent to insureds unless the document requires a response by the insured.

(C) For those documents described in subparagraph (B) that are not standardized but contain insured specific information, health insurers shall not be required to translate the documents into the threshold languages identified by the needs assessment pursuant to paragraph (2) of subdivision (b) but rather shall include with the document a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment pursuant to paragraph (2) of subdivision (b). A health insurer subject to the requirements in Section 10133.11 shall also include with the documents a written notice of the availability of interpretation services in the top 15 languages spoken by limited-English-proficient (LEP) individuals in California as determined by the State Department of Health Care Services.

(i) Upon request, the insured shall receive a written translation of those documents. The health insurer shall have up to, but not to exceed, 21 days to comply with the insured's request for a written translation. If an enrollee requests a translated document, all timeframes and deadlines requirements related to the documents that apply to the health

insurer and insureds under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health insurer's issuance of the translated document.

(ii) For appeals that require expedited review and response in accordance with the statutes and regulations of this chapter, the health insurer may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health insurers advise limited-English-proficient insureds of the availability of interpreter services.

(4) Standards to ensure the quality and accuracy of the written translation and that a translated document meets the same standards required for the English version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(5) Requirements for individual access to interpretation services that include the following:

(A) A requirement that an interpreter meets, at a minimum, all of the following qualifications:

(i) Demonstrated proficiency in both English and the target language.

(ii) Knowledge in both English and the target language of health care terminology and concepts relevant to health care delivery systems.

(iii) Adheres to generally accepted interpreter ethics principles, including client confidentiality.

(B) A requirement that the insured with limited English proficiency shall not be required to provide his or her own interpreter or rely on a staff member who does not meet the qualifications described in subparagraph (A) to communicate directly with the limited-English-proficient insured.

(C) A requirement that the insured with limited English proficiency shall not be required to rely on an adult or minor child accompanying the insured to interpret or facilitate communication except under either of the following circumstances:

(i) In an emergency, as described in Section 1317.1 of the Health and Safety Code, if a qualified interpreter is not immediately available for the insured with limited English proficiency.

(ii) If the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances.

(6) Standards to ensure the quality and timeliness of oral interpretation services provided by health insurers.

(c) In developing the regulations, standards, and requirements described in this section, the commissioner shall consider the following:

(1) Publications and standards issued by federal agencies, including the Culturally and Linguistically Appropriate Services (CLAS) in Health Care issued by the United States Department of Health and Human Services Office of Minority Health in December 2000, and the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) Policy Guidance 65 (65 Federal Register 52762 (August 30, 2000)).

(2) Other cultural and linguistic requirements under state programs, including the Medi-Cal Managed Care Policy Letters, cultural and linguistic requirements imposed by the State Department of Health Care Services on health care service plans that contract to provide Medi-Cal managed care services, and cultural and linguistic requirements imposed by the Managed Risk Medical Insurance Board on health insurers that contract to provide services in the Healthy Families Program.

(3) Standards adopted by other states pertaining to language assistance requirements for health insurers.

(4) Standards established by California or nationally recognized accrediting, certifying, or licensing organizations and medical and health care interpreter professional associations regarding interpretation services.

(5) Publications, guidelines, reports, and recommendations issued by state agencies or advisory committees, such as the report card to the public on the comparative performance of plans and reports on cultural and linguistic services issued by the Office of Patient Advocate and the report to the Legislature from the Task Force on Culturally and Linguistically Competent Physicians and Dentists required pursuant to former Section 852 of the Business and Professions Code.

(6) Examples of best practices relating to language assistance services by health care providers and health insurers that contract for alternative rates of payment with providers, including existing practices.

(7) Information gathered from complaints to the commissioner and consumer assistance help lines regarding language assistance services.

(8) The cost of compliance and the availability of translation and interpretation services and professionals.

(9) Flexibility to accommodate variations in networks and method of service delivery. The commissioner shall allow for health insurer flexibility in determining compliance with the standards for oral and written interpretation services.

(d) In designing the regulations, the commissioner shall consider all other relevant guidelines in an effort to accomplish maximum accessibility within a cost-efficient system of indemnification. The commissioner shall seek public input from a wide range of interested parties.

(e) Services, verbal communications, and written materials provided by or developed by the health insurers that contract for alternative rates of payment with providers, shall comply with the standards developed under this section.

(f) Beginning on January 1, 2008, the department shall report biennially to the Legislature regarding health insurer compliance with the standards established by this section, including results of compliance audits made in conjunction with other audits and reviews. The department shall also utilize the reported information to make recommendations for changes that further enhance standards pursuant to this section. The commissioner shall work to ensure that the biennial reports required by this section, and the data collected for the reports, do not require duplicative or conflicting data collection with other reports that may be required by government-sponsored programs. The commissioner may also delay or otherwise phase in implementation of the standards and requirements in recognition of costs and availability of translation and interpretation services and professionals.

(g) This section does not prohibit government purchasers from including in their contracts additional translation or interpretation requirements, to meet the linguistic and cultural needs, beyond those set forth pursuant to this section.

**SEC. 156.** Section 10133.11 of the Insurance Code is amended to read:

**10133.11.** (a) An insurer shall notify insureds and members of the public of all of the following information:

(1) The availability of language assistance services, including oral interpretation and translated written materials, free of charge and in a timely manner pursuant to Section 10133.8, and how to access these services. This information shall be available in the top 15 languages spoken by limited-English-proficient individuals in California as determined by the State Department of Health Care Services.

(2) The availability of appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when those aids and services are necessary to ensure an equal opportunity to participate for individuals with disabilities.

(3) An insurer does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, marital status, gender, gender identity, sexual orientation, age, or disability.

(4) How to file a complaint, including the name of the health insurer representative and the telephone number, address, and email address of the health insurer representative who may be contacted about the complaint, and how to submit the complaint to the department for review.

(5) How to file a discrimination complaint with the United States Department of Health and Human Services Office for Civil Rights if there is a concern of discrimination based on race, color, national origin, age, disability, or sex.

(b) The information required to be provided pursuant to this section shall be provided to an insured with individual coverage upon initial enrollment and annually thereafter upon renewal, and to insureds with group coverage upon initial enrollment and annually thereafter upon renewal. An insurer may include this information with other materials sent to the insured. The information shall also be provided in the following manner:

(1) In a conspicuously visible location in the evidence of coverage.

(2) At least annually, in or with newsletters, outreach, or other materials that are routinely disseminated to the health insurer's insureds.

(3) On the Internet Web site published and maintained by the health insurer, in a manner that allows insureds, prospective insureds, and members of the public to easily locate the information.

(c) (1) A specialized health insurance policy that is not a covered entity, as defined in Section 92.4 of Title 45 of the Code of Federal Regulations, subject to Section 1557 of the federal Patient Protection and Affordable Care Act (42 U.S.C. Sec. 18116) may request a waiver from the requirements under this section.

(2) The department shall not grant a waiver under this subdivision to a specialized health insurance policy that arranges for mental health or behavioral health benefits.

(3) The department shall provide information on its Internet Web site about any waivers granted under this subdivision.

**SEC. 157.** Section 10493 of the Insurance Code is amended to read:

**10493.** An incorporated or unincorporated benefit and relief association organized before January 15, 1951, may procure a certificate of exemption from the commissioner if it complies with all of the following:

(a) All of the other requirements of this article.

(b) As respects life or disability or life and disability insurance transacted by it, it is of an entirely nonprofit nature.

(c) Any one of the following requirements as to membership and purpose:

(1) It is composed of and its membership limited to the appointive officers, employees, and pupils of a public school district or of the appointive officers, employees, and pupils of any private school.

(2) It is composed of and its membership limited to the appointive officers and employees of a municipal playground system, or the systems of two or more municipalities united in a league, federation, or other association for the purpose of promoting intercity competitions or other activities, or the participants in dancing, recreational, sporting, educational, social or theatrical activities sponsored or directed by that system or systems and carried on through the use of any of the facilities of that system or systems.

(3) Its membership in this state is 1,000 or more and it is either an organization of a purely religious or benevolent character or its membership is limited to the members of that organization.

(4) It is composed of and its membership is limited to the members of another organization and that other organization is of a purely religious or benevolent character and has a total membership in this state of not less than 1,000.

(5) It is a domestic organization, lodge, society, or order that before September 19, 1947, provided life or disability benefits or both of those benefits to its members and is both of the following:

(A) It is of a charitable, benevolent, or beneficent character or becomes so within one year from September 4, 1951, and in both instances is thereafter of that character.

(B) It operates in a manner so that the payment of the benefits even though it be one of the express purposes of that organization, lodge, or order, is as a matter of fact incidental to its charitable, benevolent, or beneficent purposes or within one year from September 4, 1951, operates in that manner and in both instances thereafter operates in that manner.

(6) Officers and employees of a common employer, and related dependents of those officers and employees, comprising spouses and dependent children who are not married or in registered domestic partnerships and are under 19 years of age, and living in the same household.

(d) Pays a filing fee in the amount of one thousand six hundred ninety-three dollars (\$1,693).

**SEC. 158.** Section 1684 of the Labor Code is amended to read:

**1684.** (a) The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:

(1) The person has executed a written application in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(A) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, and responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(C) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(D) The names and addresses of all persons who in the previous calendar year performed any services described in subdivision (b) of Section 1682 within the scope of his or her employment by the licensee on whose behalf he or she was acting, unless the person was employed as an independent contractor.

(2) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) (A) The person has deposited with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

(i) For payrolls up to five hundred thousand dollars (\$500,000), a twenty-five-thousand-dollar (\$25,000) bond.

(ii) For payrolls of five hundred thousand dollars (\$500,000) to two million dollars (\$2,000,000), a fifty-thousand-dollar (\$50,000) bond.

(iii) For payrolls greater than two million dollars (\$2,000,000), a seventy-five-thousand-dollar (\$75,000) bond.

(B) For purposes of this paragraph, the Labor Commissioner shall require documentation of the size of the person's annual payroll, which may include, but is not limited to, information provided by the person to the Employment Development Department, the Franchise Tax Board, the Division of Workers' Compensation, the insurer providing the licensee's workers' compensation insurance, or the Internal Revenue Service.

(C) If the contractor has been the subject of a final judgment in a year in an amount equal to or greater than the amount of the bond required, he or she shall be required to deposit an additional bond within 60 days.

(D) All bonds required under this chapter shall be payable to the people of the State of California and shall be conditioned upon the farm labor contractor's compliance with all the terms and provisions of this chapter and subdivisions (j) and (k) of Section 12940 of, and Sections 12950 and 12950.1 of, the Government Code, and payment of all damages occasioned to any person by failure to do so, or by any violation of this chapter or of subdivision (j) or (k) of Section 12940 of, or of Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352), or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code or of subdivision (j) or (k) of Section 12940 of, or Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352).

(4) The person has paid to the Labor Commissioner a license fee of five hundred dollars (\$500) plus a filing fee of ten dollars (\$10). However, when a timely application for renewal is filed, the ten-dollar (\$10) filing fee is not required. The license fee shall increase by one hundred dollars (\$100), to six hundred dollars (\$600), on January 1, 2015. The amount attributable to this increase shall be expended by the Labor Commissioner to fund the Farm Labor Contractor Enforcement Unit and the Farm Labor Contractor License Verification Unit. The Labor Commissioner shall deposit one hundred fifty dollars (\$150) of each licensee's annual license fee into the Farmworker Remedial Account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor.

(A) In making these determinations, the Labor Commissioner shall disburse funds from the Farmworker Remedial Account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall include unpaid wages, interest on wages, and any damages or other monetary relief arising from the violation of orders of the Industrial Welfare Commission or from a violation of this code, including statutory penalties recoverable by an employee determined to be due to an agricultural worker and for all damages arising from any violation of subdivision (j) or (k) of Section 12940 of, or of Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352).

(B) A disbursement shall be made pursuant to a claim for recovery from the account in accordance with procedures prescribed by the Labor Commissioner.

(C) Disbursed funds subsequently recovered from a liable party by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the Farmworker Remedial Account.

(5) The person has taken a written examination that demonstrates an essential degree of knowledge of the current laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public, including the identification and prevention of sexual harassment in the workplace. To successfully complete the examinations, the person must correctly answer at least 85 percent of the questions posed. The examination period shall not exceed four hours. The examination may only be taken a maximum of three times in a

calendar year. The examinations shall include a demonstration of knowledge of the current laws and regulations regarding wages, hours, and working conditions, penalties, employee housing and transportation, collective bargaining, field sanitation, and safe work practices related to pesticide use, including all of the following subjects:

- (A) Field reentry regulations.
- (B) Worker pesticide safety training.
- (C) Employer responsibility for safe working conditions.
- (D) Symptoms and appropriate treatment of pesticide poisoning.

(6) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801 et seq.), when registration is required pursuant to federal law, and that information is provided by the person to the Labor Commissioner.

(7) Each of the person's employees has registered as a farm labor contractor employee pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801 et seq.) if that registration is required pursuant to federal law, and that information is provided by the person to the Labor Commissioner.

(8) (A) The person has executed a written statement, that has been provided to the Labor Commissioner, attesting that the person's supervisory employees, including any supervisor, crewleader, mayordomo, foreperson, or other employee whose duties include the supervision, direction, or control of agricultural employees, have been trained at least once for at least two hours each calendar year in the prevention of sexual harassment in the workplace, and that all new nonsupervisory employees, including agricultural employees, have been trained at the time of hire, and that all nonsupervisory employees, including agricultural employees, have been trained at least once every two years in identifying, preventing, and reporting sexual harassment in the workplace.

(B) Sexual harassment prevention training shall consist of training administered by a licensee or appropriate designee of the licensee. Sexual harassment training for each agricultural employee shall be in the language understood by that employee. The person may comply with this language requirement either by providing the training in that language or by having the training interpreted for the employee in the language that he or she understands.

(C) Sexual harassment prevention training shall include, at a minimum, components of the following as consistent with Section 12950 of the Government Code:

- (i) The illegality of sexual harassment.
- (ii) The definition of sexual harassment under applicable state and federal law.
- (iii) A description of sexual harassment, utilizing examples.
- (iv) The internal complaint process of the employer available to the employee.
- (v) The legal remedies and complaint process available through the Department of Fair Employment and Housing.
- (vi) Directions for how to contact the Department of Fair Employment and Housing.
- (vii) The protection against retaliation provided under current law.

(D) (i) The trainer may use the text of the Department of Fair Employment and Housing's pamphlet DFEH-185, "Sexual Harassment" as a guide to training, or may use other written material or other training resources covering the information required in subparagraph (C).

(ii) As part of his or her application for license renewal, in order to establish that training is occurring, a licensee shall provide the Labor Commissioner with a complete list of all materials or resources utilized to provide sexual harassment prevention training to his or her agricultural employees in the calendar year before the month the renewal application is submitted.

(E) At the conclusion of the training, the trainer shall provide the employee with a copy of the Department of Fair Employment and Housing's pamphlet DFEH-185, and a record of the training on a form provided by the Labor Commissioner that includes the name of the trainer and the date of the training.

(F) The licensee shall keep a record with the names of all employees who have received sexual harassment training for a period of three years.

(G) (i) As part of his or her application for license renewal, the licensee shall provide to the Labor Commissioner the total number of agricultural employees trained in sexual harassment prevention in the calendar year before the month the renewal application is submitted.

(ii) The Labor Commissioner shall annually aggregate the data provided under this subparagraph by licensees and publish on the Internet Web site of the Labor Commissioner the total number of agricultural employees trained in sexual harassment prevention in the previous calendar year.

(b) The Labor Commissioner shall consult with the Director of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Housing and Community Development, the Employment Development Department, the Department of Fair Employment and Housing, the Department of Food and Agriculture, the Department of Motor Vehicles, and the Division of Occupational Safety and Health in preparing the examination required by paragraph (5) of subdivision (a) and the appropriate educational materials pertaining to the matters included in the examination, and may charge a fee of not more than two hundred dollars (\$200) to cover the cost of administration of the examination.

(c) The person shall also enroll and participate in at least nine hours of relevant educational classes each year. The classes shall include at least one hour of sexual harassment prevention training. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in subdivision (b) and county agricultural commissioners.

(d) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in paragraph (5) of subdivision (a) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section 12500) of the Food and Agricultural Code, subdivisions (j) and (k) of Section 12940 of, and Section 12950 or 12950.1 of, the Government Code, Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.

(4) Has complied with all other requirements of this section.

**SEC. 159.** Section 1697.5 of the Labor Code is amended to read:

**1697.5.** (a) It is a violation of this chapter for a licensee to do any of the following:

(1) Fail to train an agricultural employee at the time of hire, as required by subparagraph (A) of paragraph (8) of subdivision (a) of Section 1684.

(2) Fail to provide training in the language understood by the agricultural employee, as required by subparagraph (B) of paragraph (8) of subdivision (a) of Section 1684.

(3) Fail to provide an agricultural employee with at least the minimum training, as required by subparagraph (C) of paragraph (8) of subdivision (a) of Section 1684.

(4) Fail to provide an agricultural employee either (A) with a record of his or her training, or (B) a copy of the specified Department of Fair Employment and Housing sexual harassment pamphlet, as required by subparagraph (E) of paragraph (8) of subdivision (a) of Section 1684.

(5) Provide an agricultural employee with a false record of completion of his or her training, as required by subparagraph (E) of paragraph (8) of subdivision (a) of Section 1684, when he or she has, in fact, received no training.

(6) Fail to keep a record of training for each agricultural employee who has received training, as required by subparagraph (F) of paragraph (8) of subdivision (a) of Section 1684.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of any of the provisions listed in subdivision (a) has occurred, the Labor Commissioner may issue a citation and assess a civil penalty in the amount of one hundred dollars (\$100) for each violation. In enforcing this section, the Labor Commissioner shall take into consideration whether the violation was inadvertent, and in his or her discretion, may decide not to penalize an employer for a first violation when that violation was due to a clerical error or inadvertent mistake.

(c) The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this section shall be the same as those set forth in Section 1197.1.

**SEC. 160.** Section 1720 of the Labor Code is amended to read:

**1720.** (a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

(2) Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. "Public work" does not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether the political subdivision or district operates under a freeholder's charter or not.

(4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(5) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.

(6) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(7) (A) Infrastructure project grants from the California Advanced Services Fund pursuant to Section 281 of the Public Utilities Code.

(B) For purposes of this paragraph, the Public Utilities Commission is not the awarding body or the body awarding the contract, as defined in Section 1722.

(8) Tree removal work done in the execution of a project under paragraph (1).

(b) For purposes of this section, "paid for in whole or in part out of public funds" means all of the following:

(1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.

(2) Performance of construction work by the state or political subdivision in execution of the project.

(3) Transfer by the state or political subdivision of an asset of value for less than fair market price.

(4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.

(5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.

(6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(c) Notwithstanding subdivision (b):

(1) Private residential projects built on private property are not subject to the requirements of this chapter unless the projects are built pursuant to an agreement with a state agency, a redevelopment agency, a successor agency to a redevelopment agency when acting in that capacity, or a local public housing authority.

(2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(3) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

(4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code do not constitute a project that is paid for in whole or in part out of public funds.

(5) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the home buyers.

(B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as temporary or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars (\$25,000).

(C) Assistance is provided to a household as either mortgage assistance, downpayment assistance, or for the rehabilitation of a single-family home.

(D) The project consists of new construction, expansion, or rehabilitation work associated with a facility developed by a nonprofit organization to be operated on a not-for-profit basis to provide emergency or transitional shelter and ancillary services and assistance to homeless adults and children. The nonprofit organization operating the project shall provide, at no profit, not less than 50 percent of the total project cost from nonpublic sources, excluding real property that is transferred or leased. Total project cost includes the value of donated labor, materials, and architectural and engineering services.

(E) The public participation in the project that would otherwise meet the criteria of subdivision (b) is public funding in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income.

(d) Notwithstanding any provision of this section to the contrary, the following projects are not, solely by reason of this section, subject to the requirements of this chapter:

(1) Qualified residential rental projects, as defined by Section 142(d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with Section 8869.80) of Division 1 of Title 2 of the Government Code on or before December 31, 2003.

(2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by Section 143 of the Internal Revenue Code, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by Section 25 of the Internal Revenue Code, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with Section 8869.80) of Division 1 of Title 2 of the Government Code on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

(e) Notwithstanding paragraph (1) of subdivision (a), construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project for the purposes of this chapter.

(f) If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.

(g) For purposes of this section, references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended, and include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

(h) The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

**SEC. 161.** Section 232 of the Military and Veterans Code is amended to read:

**232.** The commission of an officer shall be vacated by death, by acceptance by proper authority of resignation, by discharge on account of inefficiency, for physical disqualifications, when dropped from the rolls for an absence without leave for three months, by discharge to accept a commission in the United States Army, United States Air Force, United States Navy, or a reserve component thereof, when transferred to the United States Army Reserve upon the expiration of six months as a member of the Inactive National Guard, upon a finding by the Adjutant General that the officer is a security risk as a result of subversive activity, for personal traits of character, or by dismissal pursuant to sentence of a general court-martial.

**SEC. 162.** Section 435 of the Military and Veterans Code is amended to read:

**435.** (a) The Director of General Services, with the approval of the Adjutant General, may lease for not more than 99 years or sell for fair market value, upon terms and conditions and subject to any reservations and exceptions as may be determined to be in the best interests of the State, any real property held for armory purposes. Real property shall not be sold or leased pursuant to this subdivision unless the Legislature, by statute, approves the sale or lease of the property.

(b) (1) An armory shall be offered for sale to any local agency, as defined in subdivision (a) of Section 54221 of the Government Code, before being offered for sale to private entities or individuals.

(2) For purposes of paragraph (1), fair market value shall be determined by an appraisal undertaken and approved by the Director of General Services.

(3) The Department of General Services, subject to this subdivision, shall maintain a list of armories authorized for sale in a conspicuous place on its Internet Web site. The Department of General Services shall provide local agencies and, upon request, members of the public, with electronic notification of updates to the list of properties.

(4) To be considered as a potential priority buyer of the armory, a local agency shall notify the Department of General Services of its interest in the armory within 90 days of the Department of General Services posting on its Internet Web site the notice of the availability of the armory property. When more than one local agency expresses an interest in the armory, the Department of General Services shall transfer the armory to the local agency offering the highest amount of money above fair market value.

(5) If no local agency is interested, or an agreement, as provided above, is not reached, then the disposal of the armory to private entities or individuals shall be pursuant to a public bidding process designed to obtain the highest most certain return for the state from a responsible bidder, and any transaction based on that bidding process shall be deemed to be the fair market value.

(c) As to an armory sold pursuant to this section, the Director of General Services shall except and reserve to the state all mineral deposits, as described in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the Director of General Services determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the armory conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(d) There is in the State Treasury the Armory Fund. All net proceeds from the sale or lease of an armory shall be deposited in the fund. The money in the fund is available, upon appropriation by the Legislature, for the maintenance of existing armories, and for the acquisition or construction of new or replacement armories, including, but not limited to, the cost of design. The disposition of armory properties is not subject to subdivision (g) of Section 11011 of the Government Code.

(e) For the purposes of this section, "net proceeds" are the gross proceeds less:

(1) Outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred by the Department of General Services in selling an armory property.

(2) All costs directly related to the disposition of an armory, including, but not limited to, all costs and expenses incurred by the Department of General Services, as specified in subdivision (f).

(f) Notwithstanding subdivision (d), the Department of General Services shall, upon appropriation by the Legislature, use funds from the Property Acquisition Law Money Account for the purposes of selling armory properties. The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account.

(g) The sale of an armory shall be made on an "as is" basis and is exempt from Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code. Upon vesting title of the armory to the purchaser or transferee of the armory, the purchaser or transferee is subject to any local governmental land use entitlement requirements and to Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code.

**SEC. 163.** Section 1451 of the Military and Veterans Code is amended to read:

**1451.** (a) The California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund is hereby created in the State Treasury. Moneys in the Endowment Fund shall be allocated, upon appropriation by the Legislature, to the department for the nonreimbursable costs of design and construction and the annual operations and maintenance costs of the veterans cemetery for the next 10 years.

(b) Moneys in the fund may be invested to generate earnings to offset annual operations and maintenance costs associated with the veterans cemetery.

(c) (1) The Endowment Fund may consist of donations from public and private entities, partnerships between public and private entities, fees, cash advances, and transfers from the state General Fund as may be specified by law.

(2) The department may enter into any financial agreement to receive cash advances in the Endowment Fund, provided that the agreement does not require the state to repay or make payments on cash advances and the agreement is reviewed and approved by the Department of Finance.

(d) To the extent possible, donations made in-kind to the Endowment Fund shall be monetized so as to offset the ongoing operations and maintenance costs under Sections 1452 and 1453.

(e) Earnings generated by the Endowment Fund shall be retained by the fund.

(f) Moneys deposited in the Endowment Fund are exempt from the requirements of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3 of the Government Code.

(g) Moneys in the Endowment Fund shall be invested by the Treasurer, after consultation with the department, in a manner that best meets the goals of the fund.

(h) If, through changes in state or federal law, additional revenues are identified for the operations and maintenance of the cemetery, including increases in federal burial allowances, so that the amount of annual revenue exceeds the annual operations and maintenance costs, the excess revenues shall be deposited in the Endowment Fund.

**SEC. 164.** Section 831.4 of the Penal Code is amended to read:

**831.4.** (a) (1) A sheriff's or police security officer is a public officer, employed by the sheriff of a county, a police chief of a city police department, or a police chief of a police division that is within a city department and that operates independently of the city police department commanded by the police chief of a city, whose primary duty is the security of locations or facilities as directed by the sheriff or police chief. The duties of a sheriff's or police security officer shall be limited to the physical security and protection of properties owned, operated, controlled, or administered by the county or city, or any municipality or special district contracting for police services from the county or city pursuant to Section 54981 of the Government Code, or necessary duties with respect to the patrons, employees, and properties of the employing county, city, or contracting entities.

(2) In addition to the duties in paragraph (1), the duties of a security officer employed by the Chief of Police of the City of Sacramento or the Sheriff of the County of Sacramento may also include the physical security and protection of any properties owned, operated, or administered by a public agency, privately owned company, or nonprofit entity contracting for security services from the City or County of Sacramento, whose primary business supports national defense, or whose facility is qualified as a national critical infrastructure under federal law or by a federal agency, or that stores or manufactures material that, if stolen, vandalized, or otherwise compromised, may compromise national security or pose a danger to residents within the County of Sacramento. A contract entered into pursuant to this paragraph shall provide for full reimbursement to the City or County of Sacramento of the actual costs of providing those services, as determined by the county auditor or auditor-controller, or by the city. Before contracting for services pursuant to this paragraph, the Sacramento County Board of Supervisors or the governing board of the City of Sacramento shall discuss the contract and the requirements of this paragraph at a duly noticed public hearing.

(b) A sheriff's or police security officer is neither a peace officer nor a public safety officer as defined in Section 3301 of the Government Code. A sheriff's or police security officer may carry or possess a firearm, baton, and other safety equipment and weapons authorized by the sheriff or police chief while performing the duties authorized in this section, and under the terms and conditions specified by the sheriff or police chief. These persons may not exercise the powers of arrest of a peace officer, but may issue citations for infractions if authorized by the sheriff or police chief.

(c) Each sheriff's or police security officer shall satisfactorily complete a course of training as specified in Section 832 before being assigned to perform his or her duties. This section does not preclude the sheriff or police chief from requiring additional training requirements.

(d) Notwithstanding any other law, this section does not confer any authority upon a sheriff's or police security officer except while on duty, or confer any additional retirement benefits to persons employed within this classification.

**SEC. 165.** Section 1202.4 of the Penal Code is amended to read:

**1202.4.** (a) (1) It is the intent of the Legislature that a victim of crime who incurs an economic loss as a result of the commission of a crime shall receive restitution directly from a defendant convicted of that crime.

(2) Upon a person being convicted of a crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment.

(b) In every case in which a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record.

(1) The restitution fine shall be set at the discretion of the court and shall be commensurate with the seriousness of the offense. If the person is convicted of a felony, the fine shall not be less than three hundred dollars (\$300) and not more than ten thousand dollars (\$10,000). If the person is convicted of a misdemeanor, the fine shall not be less than one hundred fifty dollars (\$150) and not more than one thousand dollars (\$1,000).

(2) In setting a felony restitution fine, the court may determine the amount of the fine as the product of the minimum fine pursuant to paragraph (1) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.

(c) The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in increasing the amount of the restitution fine in excess of the minimum fine pursuant to paragraph (1) of subdivision (b). The court may specify that funds confiscated at the time of the defendant's arrest, except for funds confiscated pursuant to Chapter 8 (commencing with Section 11469) of Division 10 of the Health and Safety Code, be applied to the restitution fine if the funds are not exempt for spousal or child support or subject to any other legal exemption.

(d) In setting the amount of the fine pursuant to subdivision (b) in excess of the minimum fine pursuant to paragraph (1) of subdivision (b), the court shall consider any relevant factors, including, but not limited to, the defendant's inability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, the extent to which any other person suffered losses as a result of the crime, and the number of victims involved in the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's inability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating his or her inability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. A separate hearing for the fine shall not be required.

(e) The restitution fine shall not be subject to penalty assessments authorized in Section 1464 or Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, or the state surcharge authorized in Section 1465.7, and shall be deposited in the Restitution Fund in the State Treasury.

(f) Except as provided in subdivisions (g) and (r), in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution. The court may specify that funds confiscated at the time of the defendant's arrest, except for funds confiscated pursuant to Chapter 8 (commencing with Section 11469) of Division 10 of the Health and Safety Code, be applied to the restitution order if the funds are not exempt for spousal or child support or subject to any other legal exemption.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days before the proceeding held to decide the motion. A victim at a restitution hearing or modification hearing described in this paragraph may

testify by live, two-way audio and video transmission, if testimony by live, two-way audio and video transmission is available at the court.

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of a third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited in the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the California Victim Compensation Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property if repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period before the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period before the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288, 288.5, or 288.7.

(G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court.

(H) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

(I) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(J) Expenses to install or increase residential security incurred related to a violent felony, as defined in subdivision (c) of Section 667.5, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

(K) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

(L) Expenses for a period of time reasonably necessary to make the victim whole, for the costs to monitor the credit report of, and for the costs to repair the credit of, a victim of identity theft, as defined in Section 530.5.

(4) (A) If, as a result of the defendant's conduct, the Restitution Fund has provided assistance to or on behalf of a victim or derivative victim pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, the amount of assistance provided shall be presumed to be a direct result of the defendant's criminal conduct and shall be included in the amount of the restitution ordered.

(B) The amount of assistance provided by the Restitution Fund shall be established by copies of bills submitted to the California Victim Compensation Board reflecting the amount paid by the board and whether the services for which payment was made were for medical or dental expenses, funeral or burial expenses, mental health counseling, wage or support

losses, or rehabilitation. Certified copies of these bills provided by the board and redacted to protect the privacy and safety of the victim or any legal privilege, together with a statement made under penalty of perjury by the custodian of records that those bills were submitted to and were paid by the board, shall be sufficient to meet this requirement.

(C) If the defendant offers evidence to rebut the presumption established by this paragraph, the court may release additional information contained in the records of the board to the defendant only after reviewing that information in camera and finding that the information is necessary for the defendant to dispute the amount of the restitution order.

(5) Except as provided in paragraph (6), in any case in which an order may be entered pursuant to this subdivision, the defendant shall prepare and file a disclosure identifying all assets, income, and liabilities in which the defendant held or controlled a present or future interest as of the date of the defendant's arrest for the crime for which restitution may be ordered. The financial disclosure statements shall be made available to the victim and the board pursuant to Section 1214. The disclosure shall be signed by the defendant upon a form approved or adopted by the Judicial Council for the purpose of facilitating the disclosure. A defendant who willfully states as true a material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty.

(6) A defendant who fails to file the financial disclosure required in paragraph (5), but who has filed a financial affidavit or financial information pursuant to subdivision (c) of Section 987, shall be deemed to have waived the confidentiality of that affidavit or financial information as to a victim in whose favor the order of restitution is entered pursuant to subdivision (f). The affidavit or information shall serve in lieu of the financial disclosure required in paragraph (5), and paragraphs (7) to (10), inclusive, shall not apply.

(7) Except as provided in paragraph (6), the defendant shall file the disclosure with the clerk of the court no later than the date set for the defendant's sentencing, unless otherwise directed by the court. The disclosure may be inspected or copied as provided by subdivision (b), (c), or (d) of Section 1203.05.

(8) In its discretion, the court may relieve the defendant of the duty under paragraph (7) of filing with the clerk by requiring that the defendant's disclosure be submitted as an attachment to, and be available to, those authorized to receive the following:

(A) A report submitted pursuant to subparagraph (D) of paragraph (2) of subdivision (b) of Section 1203 or subdivision (g) of Section 1203.

(B) A stipulation submitted pursuant to paragraph (4) of subdivision (b) of Section 1203.

(C) A report by the probation officer, or information submitted by the defendant applying for a conditional sentence pursuant to subdivision (d) of Section 1203.

(9) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (5) as any of the following:

(A) A circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(B) A factor indicating that the interests of justice would not be served by admitting the defendant to probation under Section 1203.

(C) A factor indicating that the interests of justice would not be served by conditionally sentencing the defendant under Section 1203.

(D) A factor indicating that the interests of justice would not be served by imposing less than the maximum fine and sentence fixed by law for the case.

(10) A defendant's failure or refusal to make the required disclosure pursuant to paragraph (5) shall not delay entry of an order of restitution or pronouncement of sentence. In appropriate cases, the court may do any of the following:

(A) Require the defendant to be examined by the district attorney pursuant to subdivision (h).

(B) If sentencing the defendant under Section 1170, provide that the victim shall receive a copy of the portion of the probation report filed pursuant to Section 1203.10 concerning the defendant's employment, occupation, finances, and liabilities.

(C) If sentencing the defendant under Section 1203, set a date and place for submission of the disclosure required by paragraph (5) as a condition of probation or suspended sentence.

(11) If a defendant has any remaining unpaid balance on a restitution order or fine 120 days before his or her scheduled release from probation or 120 days before his or her completion of a conditional sentence, the defendant shall prepare and file a new and updated financial disclosure identifying all assets, income, and liabilities in which the defendant holds or controls or has held or controlled a present or future interest during the defendant's period of probation or conditional sentence. The financial disclosure shall be made available to the victim and the board pursuant to Section 1214. The disclosure shall be signed and prepared by the defendant on the same form as described in paragraph (5). A defendant who willfully states as true a material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty. The financial disclosure required by this paragraph shall be filed with the clerk of the court no later than 90 days before the defendant's scheduled release from probation or completion of the defendant's conditional sentence.

(12) In cases in which an employer is convicted of a crime against an employee, a payment to the employee or the employee's dependent that is made by the employer's workers' compensation insurance carrier shall not be used to offset the amount of the restitution order unless the court finds that the defendant substantially met the obligation to pay premiums for that insurance coverage.

(g) A defendant's inability to pay shall not be a consideration in determining the amount of a restitution order.

(h) The district attorney may request an order of examination pursuant to the procedures specified in Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, in order to determine the defendant's financial assets for purposes of collecting on the restitution order.

(i) A restitution order imposed pursuant to subdivision (f) shall be enforceable as if the order were a civil judgment.

(j) The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.

(k) For purposes of this section, "victim" includes all of the following:

(1) The immediate surviving family of the actual victim.

(2) A corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity if that entity is a direct victim of a crime.

(3) A person who has sustained economic loss as the result of a crime and who satisfies any of the following conditions:

(A) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(B) At the time of the crime was living in the household of the victim.

(C) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (A).

(D) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(E) Is the primary caretaker of a minor victim.

(4) A person who is eligible to receive assistance from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) A governmental entity that is responsible for repairing, replacing, or restoring public or privately owned property that has been defaced with graffiti or other inscribed material, as defined in subdivision (e) of Section 594, and that has sustained an economic loss as the result of a violation of Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7.

(l) At its discretion, the board of supervisors of a county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine should not be required, the court shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and extraordinary reasons not to require community service in addition to the finding that a restitution fine should not be required. Upon revocation of probation, the court shall impose the restitution fine pursuant to this section.

(o) Section 13963 of the Government Code applies to restitution imposed pursuant to this section.

(p) The court clerk shall notify the California Victim Compensation Board within 90 days of an order of restitution being imposed if the defendant is ordered to pay restitution to the board due to the victim receiving compensation from the Restitution Fund. Notification shall be accomplished by mailing a copy of the court order to the board, which may be done periodically by bulk mail or email.

(q) Upon conviction for a violation of Section 236.1, the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in a case in which a victim has suffered economic loss as a result of the defendant's conduct. The court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or another showing to the court. In determining restitution pursuant to this section, the court shall base its order upon the greater of the following: the gross value of the victim's labor or services based upon the comparable value of similar services in the labor market in which the offense occurred, or the value of the victim's labor as guaranteed under California law, or the actual income derived by the defendant from the victim's labor or services or any other appropriate means to provide reparations to the victim.

(r) (1) In addition to any other penalty or fine, the court shall order a person who has been convicted of a violation of Section 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording or audiovisual work to make restitution to an owner or lawful producer, or trade association acting on behalf of the owner or lawful producer, of a phonograph record, disc, wire, tape, film, or other device or article from which sounds or visual images are derived that suffered economic loss resulting from the violation. The order of restitution shall be based on the aggregate wholesale value of lawfully manufactured and authorized devices or articles from which sounds or visual images are devised corresponding to the number of nonconforming devices or articles involved in the offense, unless a higher value can be proved in the case of (A) an unreleased audio work, or (B) an audiovisual work that, at the time of unauthorized distribution, has not been made available in copies for sale to the general public in the United States on a digital versatile disc. For purposes of this subdivision, possession of nonconforming devices or articles intended for sale constitutes actual economic loss to an owner or lawful producer in the form of displaced legitimate wholesale purchases. The order of restitution shall also include reasonable costs incurred as a result of an investigation of the violation undertaken by the owner, lawful producer, or trade association acting on behalf of the owner or lawful producer. "Aggregate wholesale value" means the average wholesale value of lawfully manufactured and authorized sound or audiovisual recordings. Proof of the specific wholesale value of each nonconforming device or article is not required.

(2) As used in this subdivision, "audiovisual work" and "recording" have the same meaning as in Section 653w.

**SEC. 166.** Section 2808 of the Penal Code is amended to read:

**2808.** The board, in the exercise of its duties, shall have all of the powers and do all of the things that the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, all of the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory, and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To ensure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to ensure that the solvency of the Prison Industries Revolving Fund is maintained.

(1) This subdivision does not require immediate cash availability for funding retiree health care and pension liabilities above amounts established in the Budget Act, or as determined by the Board of Administration of the Public Employees' Retirement System, or the Director of Finance for the fiscal year.

(2) The Prison Industry Authority shall not establish cash reserves to support funding retiree health care and pension liabilities above the amounts specified in paragraph (1).

(e) To contract to employ a general manager to serve as the chief administrative officer of the authority. The general manager shall serve at the pleasure of the chairperson. The general manager shall have wide and successful experience with a productive

enterprise, and have a demonstrated appreciation of the problems associated with prison management.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Those procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural, and service enterprises under the authority's jurisdiction to enable it to operate as a self-supporting enterprise, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to subdivision (h) to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall ensure adequate public notice of those hearings. A new industrial, agricultural, or service enterprise that involves a gross annual production of more than fifty thousand dollars (\$50,000) shall not be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry that cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners who are not working full time.

**SEC. 167.** Section 5075 of the Penal Code is amended to read:

**5075.** (a) Commencing July 1, 2005, there is hereby created the Board of Parole Hearings. As of July 1, 2005, any reference to the Board of Prison Terms in this or any other code refers to the Board of Parole Hearings. As of that date, the Board of Prison Terms is abolished.

(b) (1) The Governor shall appoint 15 commissioners, subject to Senate confirmation, pursuant to this section. These commissioners shall be appointed and trained to hear only adult matters. Except as specified in paragraph (2), commissioners shall hold office for terms of three years, each term to commence on the expiration date of the predecessor. An appointment to a vacancy that occurs for any reason other than expiration of the term shall be for the remainder of the unexpired term. Commissioners are eligible for reappointment.

(2) (A) The term for the commissioner whose position was created by the act that added this paragraph shall begin on July 1, 2017.

(B) Two commissioners whose terms begin on July 1, 2017, shall be appointed for a term of one year. One of these commissioners may, but is not required to, be the commissioner whose position was created by the act that added this paragraph.

(C) Three commissioners, as selected by the Governor, whose terms began on July 1, 2016, shall serve a reduced term of two years.

(D) Terms of office subsequent to those described in subparagraphs (B) and (C) shall be governed by paragraph (1).

(3) The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the population of the state.

(c) The chair of the board shall be designated by the Governor periodically. The Governor may appoint an executive officer of the board, subject to Senate confirmation, who shall hold office at the pleasure of the Governor. The executive officer shall be the administrative head of the board and shall exercise all duties and functions necessary to ensure that the responsibilities of the board are successfully discharged. The secretary shall be the appointing authority for all civil service positions of employment with the board.

(d) Each commissioner shall participate in hearings on each workday, except if it is necessary for a commissioner to attend training, en banc hearings or full board meetings, or other administrative business requiring the participation of the commissioner. For purposes of this subdivision, these hearings include parole consideration hearings, parole rescission hearings, and parole progress hearings.

**SEC. 168.** Section 11105 of the Penal Code is amended to read:

**11105.** (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that if information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys or city prosecutors of a city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record if representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record if representing a person in a criminal case, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) A city or county, city and county, district, or an officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) A person or entity whose access is expressly authorized by statute if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) A managing or supervising correctional officer of a county jail or other county correctional facility.

(16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

(B) For purposes of this paragraph, "federal tax information," "state entity" and "designee" are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.

(c) The Attorney General may furnish state summary criminal history information and, if specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that if information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility if access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To a person if disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To an individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.

(10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of state summary criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on his or her own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice.

Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(11) To a campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to a special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) To a foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) If an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no state summary criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) If state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, a person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) If there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or a state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting state summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision applies if state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, if state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a

genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(F) Sex offender registration status of the applicant.

(G) Sentencing information, if present in the department's records at the time of the response.

(l) (1) This subdivision applies if state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other law, if state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(F) Sentencing information, if present in the department's records at the time of the response.

(m) (1) This subdivision applies if state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, if state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the State Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(D) Sex offender registration status of the applicant.

(E) Sentencing information, if present in the department's records at the time of the response.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.

(n) (1) This subdivision applies if state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency,

organization, or individual pursuant to any of the following:

(A) Paragraph (10) of subdivision (c), if the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, if state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(o) (1) This subdivision applies if state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, if state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Sentencing information, if present in the department's records at the time of the response.

(p) (1) This subdivision applies if state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, if state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.

(s) Section 50.12 of Title 28 of the Code of Federal Regulations shall be followed in processing federal criminal history information.

(t) If state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. If furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

**SEC. 169.** Section 29581 of the Penal Code is amended and renumbered to read:

**29851.** Sections 29800 and 29805 do not apply to or affect a person who otherwise violates those sections if the person did not have knowledge of the outstanding warrant.

**SEC. 170.** Section 31630 of the Penal Code is amended to read:

**31630.** (a) The department shall develop an instruction manual in English and in Spanish. The department shall make the instruction manual available to firearm dealers licensed pursuant to Sections 26700 to 26915, inclusive, who shall make it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 34205.

(b) The department shall develop audiovisual materials in English and in Spanish to be issued to instructors certified by the department.

(c) The department shall solicit input from any reputable association or organization, including any law enforcement association that has as one of its objectives the promotion of firearm safety, in the development of the firearm safety certificate instructional materials.

(d) The instruction manual shall prominently include the following firearm safety warning:

Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you can be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at <https://oag.ca.gov/firearms> for information on firearm laws applicable to you and how you can comply.

**SEC. 171.** Section 2356.5 of the Probate Code is amended to read:

**2356.5.** (a) The Legislature hereby finds and declares all of the following:

(1) That a person with a major neurocognitive disorder, as defined in the last published edition of the "Diagnostic and Statistical Manual of Mental Disorders," should have a conservatorship to serve his or her unique and special needs.

(2) That, by adding powers to the probate conservatorship for people with major neurocognitive disorder, their unique and special needs can be met. This will reduce costs to the conservatee and the family of the conservatee, reduce costly administration by state and county government, and safeguard the basic dignity and rights of the conservatee.

(3) That it is the intent of the Legislature to recognize that the administration of psychotropic medications has been, and can be, abused by caregivers and, therefore, granting powers to a conservator to authorize these medications for the treatment of major neurocognitive disorder requires the protections specified in this section.

(b) Notwithstanding any other law, a conservator may authorize the placement of a conservatee in a secured perimeter residential care facility for the elderly operated pursuant to Section 1569.698 of the Health and Safety Code, and that has a care plan that meets the requirements of Section 87705 of Title 22 of the California Code of Regulations, upon a court's finding, by clear and convincing evidence, of all of the following:

(1) The conservatee has major neurocognitive disorder, as defined in the last published edition of the "Diagnostic and Statistical Manual of Mental Disorders."

(2) The conservatee lacks the capacity to give informed consent to this placement and has at least one mental function deficit pursuant to subdivision (a) of Section 811, and this deficit significantly impairs the person's ability to understand and appreciate the consequences of his or her actions pursuant to subdivision (b) of Section 811.

(3) The conservatee needs or would benefit from a restricted and secure environment, as demonstrated by evidence presented by the physician or psychologist referred to in paragraph (3) of subdivision (f).

(4) The court finds that the proposed placement in a locked facility is the least restrictive placement appropriate to the needs of the conservatee.

(c) Notwithstanding any other law, a conservator of a person may authorize the administration of medications appropriate for the care and treatment of major neurocognitive disorder, upon a court's finding, by clear and convincing evidence, of all of the following:

(1) The conservatee has major neurocognitive disorder, as defined in the last published edition of the "Diagnostic and Statistical Manual of Mental Disorders."

(2) The conservatee lacks the capacity to give informed consent to the administration of medications appropriate to the care of major neurocognitive disorder, and has at least one mental function deficit pursuant to subdivision (a) of Section 811, and this deficit or deficits significantly impairs the person's ability to understand and appreciate the consequences of his or her actions pursuant to subdivision (b) of Section 811.

(3) The conservatee needs or would benefit from appropriate medication as demonstrated by evidence presented by the physician or psychologist referred to in paragraph (3) of subdivision (f).

(d) Pursuant to subdivision (b) of Section 2355, in the case of a person who is an adherent of a religion whose tenets and practices call for a reliance on prayer alone for healing, the treatment required by the conservator under subdivision (c) shall be by an accredited practitioner of that religion in lieu of the administration of medications.

(e) A conservatee who is to be placed in a facility pursuant to this section shall not be placed in a mental health rehabilitation center as described in Section 5675 of the Welfare and Institutions Code, or in an institution for mental disease as described in Section 5900 of the Welfare and Institutions Code.

(f) A petition for authority to act under this section is governed by Section 2357, except:

(1) The conservatee shall be represented by an attorney pursuant to Chapter 4 (commencing with Section 1470) of Part 1. Upon granting or denying authority to a conservator under this section, the court shall discharge the attorney or order the continuation of the legal representation, consistent with the standard set forth in subdivision (a) of Section 1470.

(2) The conservatee shall be produced at the hearing, unless excused pursuant to Section 1893.

(3) The petition shall be supported by a declaration of a licensed physician, or a licensed psychologist within the scope of his or her licensure, regarding each of the findings required to be made under this section for any power requested, except that the psychologist has at least two years of experience in diagnosing major neurocognitive disorder.

(4) The petition may be filed by any of the persons designated in Section 1891.

(g) The court investigator shall annually investigate and report to the court every two years pursuant to Sections 1850 and 1851 if the conservator is authorized to act under this section. In addition to the other matters provided in Section 1851, the conservatee shall be specifically advised by the investigator that the conservatee has the right to object to the conservator's powers granted under this section, and the report shall also include whether powers granted under this section are warranted. If the conservatee objects to the conservator's powers granted under this section, or the investigator determines that some change in the powers granted under this section is warranted, the court shall provide a copy of the report to the attorney of record for the conservatee. If an attorney has not been appointed for the conservatee, one shall be appointed pursuant to Chapter 4 (commencing with Section 1470) of Part 1. The attorney shall, within 30 days after receiving this report, do either of the following:

(1) File a petition with the court regarding the status of the conservatee.

(2) File a written report with the court stating that the attorney has met with the conservatee and determined that the petition would be inappropriate.

(h) A petition to terminate authority granted under this section shall be governed by Section 2359.

(i) This section shall not be construed to affect a conservatorship of the estate of a person who has major neurocognitive disorder.

(j) This section does not affect the laws that would otherwise apply in emergency situations.

(k) This section does not affect current law regarding the power of a probate court to fix the residence of a conservatee or to authorize medical treatment for any conservatee who has not been determined to have major neurocognitive disorder.

**SEC. 172.** Section 3501 of the Public Contract Code is amended to read:

**3501.** For purposes of this section:

(a) "Awarding authority" means any of the following:

(1) A state agency for a contract for a public works project that is subject to the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2).

(2) The Regents of the University of California for a contract for a public works project that is subject to Chapter 2.1 (commencing with Section 10500) of Part 2.

(3) The Trustees of the California State University for a contract for a public works project that is subject to the California State University Contract Law (Chapter 2.5 (commencing with Section 10700) of Part 2).

(b) "Department" means the Department of General Services.

(c) "Eligible materials" means any of the following:

(1) Carbon steel rebar.

(2) Flat glass.

(3) Mineral wool board insulation.

(4) Structural steel.

(d) "Eligible project" means a project that the awarding authority determines will require eligible materials.

(e) "Greenhouse gas emissions" has the same meaning as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

**SEC. 173.** Section 14571.9 of the Public Resources Code is amended to read:

**14571.9.** (a) (1) Until January 1, 2020, the department may approve up to five recycling pilot projects that meet the requirements of this section.

(2) The pilot projects, which shall be submitted by applicant jurisdictions, shall be designed to improve redemption opportunities in unserved convenience zones. It is the intent of the Legislature to create new, convenient recycling opportunities to improve consumer redemption of eligible beverage containers and increase recycling rates in jurisdictions served by pilot projects.

(3) Unless otherwise specified in or authorized by the department pursuant to this section, an operator of a pilot project shall be subject to all requirements imposed on recycling centers as specified in this division and any implementing regulations.

(4) If a pilot project ends before January 1, 2020, the department may consider additional pilot project proposals, but not more than five pilot projects may operate at the same time.

(b) (1) Notwithstanding Sections 14570, 14571, and 14571.6, a convenience zone that falls within the area of a pilot project approved by the department under this section shall be deemed served while the pilot project is operational.

(2) (A) A dealer within the jurisdiction of a pilot project shall post a clear and conspicuous sign of at least 10 inches by 15 inches at each public entrance to the dealer's place of business that specifies the name of the pilot project location nearest to the dealer, as provided by the department, the days and hours of operation of the pilot project location, and the toll-free telephone number established by the department pursuant to subparagraph (B). This information shall be kept accurate and up to date.

(B) The department shall establish a toll-free number for the purpose of disseminating information regarding beverage container recycling opportunities.

(3) If a pilot project ceases operation or the pilot project's certification has been revoked by the department, a dealer in the convenience zone served by the pilot project shall comply with Sections 14570, 14571, and 14571.6. The department shall

inform all dealers within a convenience zone of any change in status of a pilot project serving that convenience zone within 10 days.

(c) No later than 90 days after the effective date of this section, the department shall hold at least one public workshop with interested stakeholders to solicit feedback on the pilot project program described in this section, including feedback on the factors that may be considered in the approval of a pilot project.

(d) The requirements for a pilot project shall include, but not be limited to, all of the following:

(1) A pilot project shall serve one of the following:

(A) At least three unserved convenience zones.

(B) One or more convenience zones impacting a total of at least 30 dealers in unserved convenience zones.

(C) A rural region.

(2) A pilot project shall be in a jurisdiction that, as of the effective date of this section, meets at least one of the following conditions:

(A) Had at least six unserved convenience zones.

(B) Had 75 percent of the convenience zones in the jurisdiction unserved.

(C) Is located in a rural region.

(3) A pilot project shall not establish a location for redeeming a beverage container for its refund value that is outside of a convenience zone.

(4) A convenience zone in the pilot project shall be served by only one pilot project recycler.

(5) A pilot project shall be served only by a pilot project recycler that meets all of the following requirements:

(A) The pilot project recycler shall be cumulatively open for a minimum of 30 hours per week.

(B) The pilot project recycler shall be open a minimum of one day per week for at least eight hours.

(C) The pilot project recycler shall be open at least five hours per week during periods other than from Monday through Friday from 9 a.m. to 5 p.m.

(D) The pilot project recycler shall accept and pay the refund value for all eligible beverage container types.

(E) The operator of the pilot project recycler shall notify the department in writing 10 days before any change of the location where redeemed empty beverage containers are stored.

(F) The pilot project recycler shall only redeem eligible empty beverage container material purchased from consumers for recycling, and shall not accept material from any other certified or noncertified person or entity, including, but not limited to, recycling centers, dropoff or collection programs, curbside programs, and processors.

(G) A pilot project operator shall keep separate transaction records for each location within the pilot project, and in the case of mobile collection programs, separate transaction records for each location served by the mobile unit.

(6) A processor shall not issue an authorization to cancel pursuant to subdivision (b) of Section 2110 of Title 14 of the California Code of Regulations to a pilot project recycler.

(7) Additional requirements as deemed necessary by the department.

(e) A pilot project established pursuant to this section may provide stationary dropoff locations or mobile collection programs.

(f) A jurisdiction that opts to be served by a pilot project shall submit its pilot project proposal to the department for approval. The proposal shall include all of the following elements:

(1) A map of the pilot project area, including intended locations for pilot project recyclers.

(2) A list of proposed operators of pilot project recyclers.

(3) Contact information for the jurisdiction.

(4) Planned dates of operation.

(5) A description of how the pilot project will meet the requirements of this section.

(6) Additional elements as determined by the department.

(g) The department may issue probationary certificates of operation to pilot project recyclers participating in an approved pilot project. A certificate issued under this section shall be valid, and shall specify that the certificate is valid, for a period of not more than three years or until the end of the pilot project, whichever comes first. Notwithstanding certification requirements imposed by this division or implementing regulations, the following application review timelines shall apply to pilot projects:

(1) The department shall notify each applicant and the appropriate pilot project contact within 30 calendar days of receipt of the proposal, or receipt of additional information if the proposal was initially deemed incomplete, that the proposal for certification is either complete and accepted for further review or incomplete and the reasons for incompleteness.

(2) Upon determining that a proposal is complete, the department shall notify the applicant and appropriate pilot project contact in writing within 30 calendar days that the application is either approved with probationary status or denied and the reasons for denial.

(h) In approving pilot projects, the department shall consider all of the following factors:

(1) The number of unserved convenience zones that will be served by the pilot project.

(2) The total number of hours per week the pilot project recycler will operate.

(3) The total number of locations that will be served under the pilot project.

(4) Whether the jurisdiction has actively prevented the siting or operation of a certified recycling center at a supermarket site.

(5) The geographic distribution of jurisdictions proposing a pilot project.

(6) Potential impacts to existing certified recycling centers.

(7) Additional factors deemed relevant by the department.

(i) (1) The department may revoke the approval of a pilot project or the associated probationary certification of a pilot project recycler participating in the pilot project, or both, at any time if the jurisdiction or operator of the pilot project recycler fails to meet the conditions outlined in the department's approval of the application or violates this division or a regulation adopted pursuant to this division, except as to violations of the division or regulations that are inconsistent with the operation of an approved pilot project. If the department revokes a probationary certification of a pilot project recycler, the department may require the jurisdiction or operator of the pilot project to take the steps necessary to ensure that the pilot project achieves its goals consistent with the approved pilot project application.

(2) If the approval of a pilot project is revoked, the review process described in Section 14571.7 shall apply to each convenience zone that was a part of the pilot project.

(j) A pilot project recycler that has been certified by the department on a probationary basis pursuant to an approved pilot project shall be eligible to apply for handling fees pursuant to Section 14585 and to receive from certified processors the amounts specified in subdivision (a) of Section 14573.5 for refund values, administrative costs, and processing payments. For purposes of handling fee eligibility, a pilot project recycler may be located anywhere within a convenience zone.

(k) The department may adopt emergency regulations for the purpose of implementing this section. Emergency regulations, if adopted, 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 the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations 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. Emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until amended or repealed by the department or January 1, 2022, whichever comes first.

(l) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.

**SEC. 174.** Section 454.52 of the Public Utilities Code is amended to read:

**454.52.** (a) (1) Beginning in 2017, and to be updated regularly thereafter, the commission shall adopt a process for each load-serving entity, as defined in Section 380, to file an integrated resource plan, and a schedule for periodic updates to the plan, to

ensure that load-serving entities do the following:

(A) Meet the greenhouse gas emissions reduction targets established by the State Air Resources Board, in coordination with the commission and the Energy Commission, for the electricity sector and each load-serving entity that reflect the electricity sector's percentage in achieving the economywide greenhouse gas emissions reductions of 40 percent from 1990 levels by 2030.

(B) Procure at least 50 percent eligible renewable energy resources by December 31, 2030, consistent with Article 16 (commencing with Section 399.11) of Chapter 2.3.

(C) Enable each electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(D) Minimize impacts on ratepayers' bills.

(E) Ensure system and local reliability.

(F) Strengthen the diversity, sustainability, and resilience of the bulk transmission and distribution systems, and local communities.

(G) Enhance distribution systems and demand-side energy management.

(H) Minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.

(2) (A) The commission may authorize all source procurement for electrical corporations that includes various resource types including demand-side resources, supply side resources, and resources that may be either demand-side resources or supply side resources, taking into account the differing electrical corporations' geographic service areas, to ensure that each load-serving entity meets the goals set forth in paragraph (1).

(B) The commission may approve procurement of resource types that will reduce overall greenhouse gas emissions from the electricity sector and meet the other goals specified in paragraph (1), but due to the nature of the technology or fuel source may not compete favorably in price against other resources over the time period of the integrated resource plan.

(3) In furtherance of the requirements of paragraph (1), the commission shall consider the role of existing renewable generation, grid operational efficiencies, energy storage, and distributed energy resources, including energy efficiency, in helping to ensure each load-serving entity meets energy needs and reliability needs in hours to encompass the hour of peak demand of electricity, excluding demand met by variable renewable generation directly connected to a California balancing authority, as defined in Section 399.12, while reducing the need for new electricity generation resources and new transmission resources in achieving the state's energy goals at the least cost to ratepayers.

(b) (1) Each load-serving entity shall prepare and file an integrated resource plan consistent with paragraph (2) of subdivision (a) on a time schedule directed by the commission and subject to commission review.

(2) Each electrical corporation's plan shall follow the provisions of Section 454.5.

(3) The plan of a community choice aggregator shall be submitted to its governing board for approval and provided to the commission for certification, consistent with paragraph (5) of subdivision (a) of Section 366.2, and shall achieve the following:

(A) Economic, reliability, environmental, security, and other benefits and performance characteristics that are consistent with the goals set forth in paragraph (1) of subdivision (a).

(B) A diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reduction products.

(C) The resource adequacy requirements established pursuant to Section 380.

(4) The plan of an electric service provider shall achieve the goals set forth in paragraph (1) of subdivision (a) through a diversified portfolio consisting of both short-term and long-term electricity, electricity-related, and demand reduction products.

(c) To the extent that additional procurement is authorized for the electrical corporation in the integrated resource plan or the procurement process authorized pursuant to Section 454.5, the commission shall ensure that the costs are allocated in a fair and equitable manner to all customers consistent with Section 454.51, that there is no cost shifting among customers of load-serving entities, and that community choice aggregators may self-provide renewable integration resources consistent with Section 454.51.

(d) To eliminate redundancy and increase efficiency, the process adopted pursuant to subdivision (a) shall incorporate, and not duplicate, any other planning processes of the commission.

(e) This section applies to an electrical cooperative, as defined in Section 2776, only if the electrical cooperative has an annual electrical demand exceeding 700 gigawatthours, as determined based on a three-year average commencing with January 1, 2013.

**SEC. 175.** Section 2836.7 of the Public Utilities Code is amended to read:

**2836.7.** By June 1, 2018, all of the following shall occur:

(a) (1) The Los Angeles Department of Water and Power shall, in coordination with the city council of the City of Los Angeles, if it chooses to participate, determine the cost-effectiveness and feasibility of deploying, on an expedited basis, a minimum aggregate total of 100 megawatts of cost-effective energy storage solutions to help address the Los Angeles Basin's electrical system operational limitations resulting from reduced gas deliverability from the Aliso Canyon natural gas storage facility.

(2) If the Los Angeles Department of Water and Power determines pursuant to paragraph (1) that deploying the cost-effective energy storage solutions, as described in paragraph (1), is cost effective and feasible, it shall consider deploying those cost-effective energy storage solutions after June 1, 2018.

(b) The commission shall, to the extent that doing so is cost effective and feasible and necessary to meet the reliability requirements of the electrical system in the Los Angeles Basin, direct an electrical corporation serving the Los Angeles Basin to deploy, pursuant to a competitive solicitation, a minimum aggregate total of 20 megawatts of cost-effective energy storage solutions to help address the Los Angeles Basin's electrical system operational limitations resulting from reduced gas deliverability from the Aliso Canyon natural gas storage facility. An electrical corporation may count any cost-effective energy storage solution that it deploys pursuant to this subdivision towards the capacity requirement established pursuant to Section 2838.2 if the cost-effective storage solution that it deploys is a distributed energy storage system, as defined in subdivision (a) of Section 2838.2.

(c) (1) It is the intent of the Legislature that the commission and all public utilities having jurisdiction affected by this section or by actions taken pursuant to this section shall take immediate actions to support rapid compliance with this section, including by allowing or developing fast-tracked permitting, interconnection studies, and interconnection processes, and through rule waivers or adjustments if appropriate, to support rapid or more rapid site acquisition for energy storage project developments and customer acquisition of energy storage solutions. This paragraph is not intended to in any way modify the obligations of the commission or a public utility under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(2) It is the intent of the Legislature that local governments having jurisdiction affected by this section or by actions taken pursuant to this section strongly consider taking immediate actions to support rapid compliance with this section, including by allowing or developing fast-tracked permitting and waiving or adjusting procedural requirements, to support rapid or more rapid site acquisition for energy storage project developments and customer acquisition of energy storage solutions. This paragraph is not intended to in any way modify the obligations of a local government under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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

(1) "Cost-effective energy storage solution" means any grid-connected energy storage facility developed on or after the effective date of this section of any type or technology, including transmission-connected, distribution-connected, and behind-the-meter sited or located resources, that will mitigate the limitation on gas storage capacity and gas deliverability resulting from the well failure at the Aliso Canyon natural gas storage facility. Cost-effective energy storage solutions shall be designed to be capable of providing a four-hour duration resource adequacy service, which may include energy delivery for the full four hours at a rated output, and shall be capable of delivering electricity to the source of demand and required to accept and execute reasonable remote or centralized dispatch commands.

(2) To "deploy" means to procure a cost-effective energy storage solution on or after the effective date of this section that may be a third-party-owned solution, or a solution procured pursuant to a power-purchase agreement or rebate program, or pursuant to any other third-party ownership structure, as allowed by applicable rules governing electric service and procurement, sited or located where the project will mitigate the limitation on gas storage capacity and gas deliverability resulting from the well failure at the Aliso Canyon natural gas storage facility.

(3) "Los Angeles Basin" means the area identified as the "Aliso Canyon Delivery Area" on page 11 of the Aliso Canyon Risk Assessment Technical Report, dated April 5, 2016.

**SEC. 176.** Section 99313 of the Public Utilities Code is amended to read:

**99313.** (a) From the funds made available pursuant to subdivision (c) of Section 99312 and paragraph (2) of subdivision (a) of Section 99312.1, an amount shall be allocated by the Controller to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board based on the ratio of the population of the area under its jurisdiction to the total population of the state. The Controller shall base these allocations on a report prepared by the Department of Transportation. On or before June 30 of each year, the Department of Transportation shall prepare and submit to the Controller a report detailing the population of each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board. For the purpose of this report, the Department of Transportation shall use the most recent population estimates of the Department of Finance and the information provided pursuant to subdivision (b).

(b) To assist the Department of Transportation in determining the populations of the San Diego Metropolitan Transit Development Board, the San Diego Association of Governments, the El Dorado County Transportation Commission, the Placer County Transportation Planning Agency, and the Tahoe Regional Planning Agency for the purpose of subdivision (c) of Section 99312 and paragraph (2) of subdivision (a) of Section 99312.1, each of those entities, on or before June 1st of each year, shall provide the department with the population of its respective jurisdiction using the most recent population estimates of the Department of Finance.

**SEC. 177.** Section 99314 of the Public Utilities Code is amended to read:

**99314.** (a) From funds made available pursuant to subdivision (b) of Section 99312 and paragraph (1) of subdivision (a) of Section 99312.1, an amount shall be allocated by the Controller to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board. The allocation shall include an amount corresponding to the STA-eligible operators within the jurisdiction of each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board. The amount allocated to a transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board shall be based on the ratio that the total qualifying revenue of all STA-eligible operators in the area under jurisdiction of the agency, commission, or board bears to the total qualifying revenue of all STA-eligible operators in the state.

(b) For purposes of this section and Section 99314.3, "qualifying revenue" means fare revenues, including fares generated for community transit services under contract with the STA-eligible operator, and any other funds used by the operator in the delivery of transit service, except federal and state funds. The revenue amount for each STA-eligible operator shall be determined from the annual report submitted to the Controller pursuant to Section 99243. Revenue used for capital expenditures or depreciation shall not constitute qualifying revenue. The revenue share for the Altamont Corridor Express and the Southern California Regional Rail Authority shall be determined by the qualifying revenues reported to the Controller in accordance with subdivision (b) of Section 99314.1 and subdivision (b) of Section 99314.2, respectively.

(c) An STA-eligible operator qualifies to receive STA funding pursuant to this section beginning on the date when it commences revenue passenger service. A new STA-eligible operator shall notify the Controller in writing that it has commenced revenue passenger service within 10 business days of beginning the service. A new STA-eligible operator that commences revenue passenger service before August 1 of a fiscal year shall be eligible to receive funds in that fiscal year based on the qualifying revenue reported to the Controller two years before that fiscal year, consistent with subdivision (e). If a new STA-eligible operator commences revenue passenger service on or after August 1 of a fiscal year, the Controller shall calculate the operator's pro rata share of STA funds under this section for that fiscal year based on the date the operator commenced revenue passenger service. That amount shall be added as an adjustment to an operator's STA funding for the subsequent fiscal year, and the adjustment shall be drawn as an off-the-top reduction from the first quarter of STA funds under this section.

(d) The Controller shall determine allocation amounts pursuant to this section based on the qualifying revenue reported two years before the fiscal year in which the funds are allocated.

(e) Qualifying revenue for a given fiscal year shall not exceed an STA-eligible operator's annual operating expenses, as reported to the Controller. Operating expenses include, but are not limited to, the direct cost of operating transit service, payments by the STA-eligible operator for community transit service provided by entities that are not eligible to receive funds directly pursuant to subdivision (a) of Section 99314.3, administrative costs, and routine maintenance. Operating expenses do not include transfers from an operating budget to a capital account.

(f) For the purpose of allocating funds pursuant to this section, Section 99314.1, and 99314.2, "STA-eligible operator" includes the Altamont Corridor Express and the Southern California Regional Rail Authority. The revenue share for these operators shall be based on the qualifying revenue used to operate the systems consistent with subdivision (b), including fares and the amounts contributed by the parties to the cooperative service agreement in the case of the Altamont Corridor Express, and by the member agencies in the case of the Southern California Regional Rail Authority.

(g) Funds allocated by the Controller to a transportation planning agency or county transportation commission, or the San Diego Metropolitan Transit Development Board pursuant to this section shall be allocated by the agency, commission, or board to STA-eligible operators pursuant to Section 99314.3.

**SEC. 178.** Section 99314.1 of the Public Utilities Code is amended to read:

**99314.1.** (a) For purposes of this section, the following terms have the following meanings:

(1) The "Altamont Corridor Express" or the "authority" is the joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the Alameda Congestion Management Agency, the Santa Clara Valley Transportation Authority, and the San Joaquin Regional Rail Commission. Any reference to the "Altamont Corridor Express" or the "authority" shall be construed to include a reference to any entity that is a successor to the authority.

(2) "Qualifying revenue" means qualifying revenue, as defined in subdivision (b) of Section 99314, that is derived from operating as a member agency of the authority.

(b) The authority shall report to the Controller, for each fiscal year, the ratio that the qualifying revenue of each member agency of the authority bears to the total qualifying revenue of the authority during that fiscal year. The authority shall provide the ratios within the timeframe specified by subdivision (a) of Section 99243.

(c) (1) From funds made available pursuant to subdivision (b) of Section 99312 and paragraph (1) of subdivision (a) of Section 99312.1, the Controller shall allocate to the transportation planning agencies in the jurisdictions of the parties to the cooperative service agreement an amount for each member agency of the authority that is based on the ratio provided under subdivision (b), for allocation pursuant to subdivision (c) of Section 99314.3.

(2) The allocation set forth in paragraph (1) shall be in addition to any other allocation provided under this article.

(3) Allocations made under this section shall be used only for STA program purposes authorized under this chapter.

**SEC. 179.** Section 99314.2 of the Public Utilities Code is amended to read:

**99314.2.** (a) For purposes of this section, the following terms have the following meanings:

(1) The "Southern California Regional Rail Authority" or the "authority" is that joint powers authority described in Section 14072 of the Government Code and includes any additional agencies that may join the authority under Section 14072.2 of that code.

(2) "Qualifying revenue" means qualifying revenue, as defined in subdivision (b) of Section 99314, that is derived from operating as a member agency of the authority.

(b) The Southern California Regional Rail Authority shall report to the Controller, for each fiscal year, the ratio that the qualifying revenue of each member agency of the authority bears to the total qualifying revenue of the authority during that fiscal year. The authority shall provide the ratios within the timeframe specified by subdivision (a) of Section 99243.

(c) (1) From funds made available pursuant to subdivision (b) of Section 99312 and paragraph (1) of subdivision (a) of Section 99312.1, the Controller shall allocate to the county transportation commissions in the jurisdictions of the member agency's area an amount for each member agency of the authority that is based on the ratio provided under subdivision (b), for allocation pursuant to subdivision (c) of Section 99314.3.

(2) The allocation set forth in paragraph (1) shall be in addition to any other allocation provided under this article.

(3) Allocations made under this section shall be used only for STA program purposes authorized under this chapter.

**SEC. 180.** Section 103326 of the Public Utilities Code is amended to read:

**103326.** The board shall avail itself of the assessments made by the county assessor and of the assessments made by the State Board of Equalization for the county, and shall take such assessments as the basis for district property taxation and have its property taxes collected by the county tax collector.

**SEC. 181.** Section 120102.5 of the Public Utilities Code is amended to read:

**120102.5.** (a) A majority of the members of the board constitutes a quorum for the transaction of business. All official acts of the board require the affirmative vote of the majority of the members of the board present. However, after a vote of the members is taken, a weighted vote may be called by the members of any two jurisdictions.

(b) In the case of a weighted vote, the County of San Diego and each city shall, in total, exercise 100 votes to be apportioned annually based on population, except in the case of the City of San Diego. Each of the four representatives of the City of San Diego shall exercise  $12\frac{1}{2}$  weighted votes, for a total of 50 votes. The representatives for the City of Chula Vista shall split the votes allocated to that city evenly among its representatives.

(c) Approval under the weighted vote procedure requires the vote of the representatives of not less than three jurisdictions representing not less than 51 percent of the total weighted vote to supersede the original action of the board.

(d) If a weighted vote is taken on any item that requires more than a majority vote of the board, it shall also require the supermajority percentage of the weighted vote.

(e) For purposes of subdivision (b), the population of the County of San Diego is the population in the unincorporated area of the county within the area of jurisdiction of the transit development board pursuant to Section 120054.

(f) The board shall adopt a policy and procedure to implement this section.

**SEC. 182.** Section 132354.1 of the Public Utilities Code is amended to read:

**132354.1.** (a) The board shall arrange for a post audit of the financial transactions and records of the consolidated agency to be made at least annually by a certified public accountant.

(b) (1) The audit committee shall appoint an independent performance auditor, subject to approval by the board, who may only be removed for cause by a vote of at least two-thirds of the audit committee and the board.

(2) The independent performance auditor shall have authority to conduct or to cause to be conducted performance audits of all departments, offices, boards, activities, agencies, and programs of the consolidated agency. The auditor shall prepare annually an audit plan and conduct audits in accordance therewith and perform those other duties as may be required by ordinance or as provided by the California Constitution and general laws of the state. The auditor shall follow government auditing standards. All officers and employees of the consolidated agency shall furnish to the auditor unrestricted access to employees, information, and records, including electronic data, within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts, and methods of business required to conduct an audit or otherwise perform audit duties. It is also the duty of any consolidated agency officer, employee, or agent to fully cooperate with the auditor, and to make full disclosure of all pertinent information.

(3) The auditor shall have the power to appoint, employ, and remove assistants, employees, and personnel as deemed necessary for the efficient and effective administration of the affairs of the office and to prescribe their duties, scope of authority, and qualifications.

(4) The auditor may investigate any material claim of financial fraud, waste, or impropriety within the consolidated agency and for that purpose may summon any officer, agent, or employee of the consolidated agency, any claimant, or other person, and examine him or her upon oath or affirmation relative thereto. All consolidated agency contracts with consultants, vendors, or agencies will be prepared with an adequate audit provision to allow the auditor access to the entity's records needed to verify compliance with the terms specified in the contract. Results of all audits and reports shall be made available to the public in accordance with the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) The board shall develop and adopt internal control guidelines to prevent and detect financial errors and fraud based on the internal control guidelines developed by the Controller pursuant to Section 12422.5 of the Government Code and the standards adopted by the American Institute of Certified Public Accountants.

(d) The board shall develop and adopt an administration policy that includes a process to conduct staff performance evaluations on a regular basis to determine if the knowledge, skills, and abilities of staff members are sufficient to perform their respective functions, and shall monitor the evaluation process on a regular basis.

(e) The board members shall make an annual report to their member agencies at a public meeting pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, that includes a summary of activities by the consolidated agency including, but not limited to, program developments, project updates, changes to voter-approved expenditure plans, and potential ballot measures.

**SEC. 183.** Section 132656 of the Public Utilities Code is amended to read:

**132656.** The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and constructing facilities to achieve transit connectivity, including, but not limited to, all of the following:

(a) Acceptance of grants, fees, allocations, and transfers of moneys from federal, state, and local agencies, including, but not limited to, moneys from local measures, as well as private entities.

(b) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority.

(c) Incurring indebtedness, secured by pledges of available revenue.

(d) Contracting with public and private entities for the planning, design, and construction of the connection. These contracts may be assigned separately or may be combined to include any or all tasks necessary to achieve transit connectivity.

(e) Entering into cooperative or joint development agreements with local governments or private entities necessary to achieve transit connectivity. These agreements may be entered into for purposes of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted to the authority. For purposes of this subdivision, "joint development" includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, achieving transit connectivity.

(f) Relocation of utilities, as necessary to achieve transit connectivity.

**SEC. 184.** Section 259.15 of the Revenue and Taxation Code is amended to read:

**259.15.** (a) For the 2018–19 fiscal year to the 2027–28 fiscal year, the claim for welfare exemption on a property that is eligible for and has received low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, including Section 42(g)(2)(D) of the Internal Revenue Code, relating to treatment of units occupied by individuals whose incomes rise above limit, in addition to giving any other information as prescribed by the board, when claiming an exemption for units pursuant to clause (iii) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 214, shall be accompanied by an affidavit that provides the following:

(1) A list of all units, for which exemption is claimed, in which the unit will continue to be treated as a low-income unit if the occupant initially met the income limitation and the unit continues to be rent restricted.

(2) All of the following nonpersonally identifiable information about the occupants of the units listed pursuant to paragraph (1):

(A) The unit name or number.

(B) The actual household income of the occupant.

(C) The maximum rent that may be charged to the occupant.

(D) The actual rent charged to the occupant.

(b) The affidavit required to accompany the claim for welfare exemption pursuant to subdivision (a) shall be confidential and shall not be subject to public disclosure.

**SEC. 185.** Section 721.5 of the Revenue and Taxation Code is amended to read:

**721.5.** (a) Notwithstanding Section 721 or any other provision of law to the contrary, commencing with the lien date for the 2003–04 fiscal year, the board shall annually assess every electric generation facility with a generating capacity of 50 megawatts or more that is owned or operated by an electrical corporation, as defined in subdivisions (a) and (b) of Section 218 of the Public Utilities Code.

(b) For purposes of subdivision (a), "electric generation facility" does not include a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17) and (18) and 824a-3), and the regulations adopted for those sections under that act by the Federal Energy Regulatory Commission (18 C.F.R. 292.101-292.602), or a facility producing power from other than a conventional power source that is an exempt wholesale generator, as defined in the federal Public Utility Holding Company Act of 2005 (42 U.S.C. Sec. 16451(6)).

**SEC. 186.** Section 7102 of the Revenue and Taxation Code is amended to read:

**7102.** The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the  $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel that would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund, except as modified as follows:

(A) For the 2001–02 fiscal year, those transfers may not be more than eighty-one million dollars (\$81,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds eighty-one million dollars (\$81,000,000).

(B) For the 2002–03 fiscal year, those transfers may not be more than thirty-seven million dollars (\$37,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds thirty-seven million dollars (\$37,000,000).

(C) For the 2003–04 fiscal year, no transfers shall be made pursuant to this paragraph, except that if the amount to be otherwise transferred pursuant to this paragraph is in excess of eighty-seven million four hundred fifty thousand dollars (\$87,450,000), then the amount of that excess shall be transferred.

(D) For the 2004–05 fiscal year, no transfers shall be made pursuant to this paragraph, and of the amount that would otherwise have been transferred, one hundred forty million dollars (\$140,000,000) shall instead be transferred to the Traffic Congestion Relief Fund as partial repayment of amounts owed by the General Fund pursuant to Item 2600-011-3007 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002).

(E) For the 2005–06 fiscal year, no transfers shall be made pursuant to this paragraph.

(F) For the 2006–07 fiscal year, the revenues estimated pursuant to this paragraph shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred and allocated as follows:

(i) The first two hundred million dollars (\$200,000,000) shall be transferred to the Transportation Deferred Investment Fund as partial repayment of the amounts owed by the General Fund to that fund pursuant to Section 7106.

(ii) The next one hundred twenty-five million dollars (\$125,000,000) shall be transferred to the Bay Area Toll Account for expenditure pursuant to Section 188.6 of the Streets and Highways Code.

(iii) Of the remaining revenues, thirty-three million dollars (\$33,000,000) shall be transferred to the Public Transportation Account to support appropriations from that account in the Budget Act of 2006.

(iv) The remaining revenues shall be transferred to the Public Transportation Account for allocation as follows:

(I) Twenty percent to the Department of Transportation for purposes of Section 99315 of the Public Utilities Code.

(II) Forty percent to the Controller, for allocation pursuant to Section 99314 of the Public Utilities Code.

(III) Forty percent to the Controller, for allocation pursuant to Section 99313 of the Public Utilities Code.

(G) For the 2007–08 fiscal year, the first one hundred fifty-five million four hundred ninety-one thousand eight hundred thirty-seven dollars (\$155,491,837) in revenue estimated pursuant to this paragraph each quarter shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred quarterly to the Mass Transportation Fund. If revenue in any quarter is less than that amount, the transfer in the subsequent quarter or quarters shall be increased so that the total transferred for the fiscal year is six hundred twenty-one million nine hundred sixty-seven thousand three hundred forty-eight dollars (\$621,967,348).

(H) For the 2008–09 fiscal year and every fiscal year thereafter, 50 percent of the revenue estimated pursuant to this paragraph each quarter shall, notwithstanding any other provision of this paragraph or any other provision of law, and except as provided in subparagraph (I), be transferred to the Mass Transportation Fund. Notwithstanding this requirement, for the 2008–09 fiscal year, the amount of three hundred eight million seven hundred thirty-five thousand dollars (\$308,735,000) for each of the first three quarters, and the amount of one hundred fifteen million twenty-nine thousand dollars (\$115,029,000) for the fourth quarter, shall be transferred to the Mass Transportation Fund. If revenue for any quarter is less than the specified amount, the transfer in the subsequent quarter or quarters shall be increased so that the total transfer for the fiscal year is one billion forty-one million two hundred thirty-four thousand dollars (\$1,041,234,000).

(I) For the 2009–10 to 2012–13 fiscal years, inclusive, all revenue estimated pursuant to this paragraph shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred quarterly to the Mass Transportation Fund.

(2) All revenues, less refunds, derived under this part at the  $4\frac{3}{4}$ -percent rate, resulting from increasing, after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the  $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the California Department of Tax and Fee Administration with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(4) (A) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(B) Notwithstanding subparagraph (A), if the Director of Finance determines that the California Department of Tax and Fee Administration has allocated more revenue to the Local Revenue Fund for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, than required by subparagraph (A), the total amount of revenue credited to the Local Revenue Fund for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, for allocation to cities and counties as prescribed by statute shall be considered to have fulfilled the requirements of subparagraph (A), and an allocation adjustment for this period shall not be made.

(5) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(6) Notwithstanding paragraph (5), if the Director of Finance determines that the California Department of Tax and Fee Administration has allocated more revenue to the Public Safety Account for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, than required by paragraph (5), the total amount of revenue credited to the Public Safety Account for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, shall be considered to have fulfilled the requirements of paragraph (5), and an allocation adjustment for this period shall not be made.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be estimated by the California Department of Tax and Fee Administration, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Public Transportation Account as a trust fund pursuant to subdivision (a), the Controller may use the Public Transportation Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

**SEC. 187.** Section 7285.91 of the Revenue and Taxation Code is amended to read:

**7285.91.** As an alternative to the procedure set forth in Section 7285.9, the governing body of any city may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.125 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:

(a) The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.

(b) The transactions and use tax conforms to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

**SEC. 188.** Section 7653.2 of the Revenue and Taxation Code is amended to read:

**7653.2.** On or before January 1, 2018, each person subject to the storage tax imposed under Section 7361.2 shall prepare and file with the board, in a form prescribed by the board, a return showing the total number of gallons of tax-paid motor vehicle fuel

owned by the person on November 1, 2017, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the Controller in the amount of tax due.

**SEC. 189.** Section 11053 of the Revenue and Taxation Code is amended to read:

**11053.** Revenues from the transportation improvement fee, after deduction of the department's administrative costs related to this chapter, shall be transferred by the department to the Controller for deposit as follows:

(a) Commencing with the 2017–18 fiscal year, three hundred fifty million dollars (\$350,000,000), plus an annual increase for inflation as determined in subdivision (b) of Section 11052 for this proportional share, shall annually be deposited into the Public Transportation Account. The Controller shall, each month, transfer one-twelfth of this amount, except in the 2017–18 fiscal year, when the Controller shall transfer one-sixth of this amount, to accumulate a total of three hundred fifty million dollars (\$350,000,000) plus the inflation adjustment amount in each fiscal year. The Controller may adjust the amount transferred in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision. For each fiscal year commencing with the 2017–18 fiscal year, the annual Budget Act shall include an appropriation for 70 percent of these revenues to be allocated to the Transit and Intercity Rail Capital Program (Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code), pursuant to Section 99312.4 of the Public Utilities Code. The remaining 30 percent of these revenues shall be continuously appropriated to the Controller for allocation under the State Transit Assistance Program, pursuant to subdivision (c) of Section 99312.1 of the Public Utilities Code.

(b) Commencing with the 2017–18 fiscal year, two hundred fifty million dollars (\$250,000,000) shall annually be deposited into the State Highway Account for appropriation by the annual Budget Act to the Solutions for Congested Corridor Program created pursuant to Section 2391 of the Streets and Highways Code. The Controller shall, each month, transfer one-twelfth of this amount, except in the 2017–18 fiscal year, when the Controller shall transfer one-sixth of this amount, to accumulate a total of two hundred fifty million dollars (\$250,000,000) in each fiscal year. The Controller may adjust the amount transferred in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision.

(c) The remaining revenues after the transfers made in subdivisions (a) and (b) shall be deposited into the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highway Code.

**SEC. 190.** Section 17039 of the Revenue and Taxation Code is amended to read:

**17039.** (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the "net tax" shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against "net tax" in the following order:

- (1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).
- (2) Credits that contain carryover provisions but do not contain refundable provisions, except for those that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062.
- (3) Credits that contain both carryover and refundable provisions.
- (4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).
- (5) Credits that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062.
- (6) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).
- (7) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17061 (relating to refunds pursuant to the Unemployment Insurance Code) and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits:

- (A) The credit allowed by former Section 17052.2 (relating to teacher retention tax credit).
- (B) The credit allowed by former Section 17052.4 (relating to solar energy).
- (C) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on January 1, 1987).
- (D) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on December 1, 1994).
- (E) The credit allowed by Section 17052.12 (relating to research expenses).
- (F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit).
- (G) The credit allowed by former Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit).
- (H) The credit allowed by Section 17052.25 (relating to the adoption costs credit).
- (I) The credit allowed by Section 17053.5 (relating to the renter's credit).
- (J) The credit allowed by former Section 17053.8 (relating to enterprise zone hiring credit).
- (K) The credit allowed by former Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit).
- (L) The credit allowed by former Section 17053.11 (relating to program area hiring credit).
- (M) For each taxable year beginning on or after January 1, 1994, the credit allowed by former Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit).
- (N) The credit allowed by former Section 17053.33 (relating to targeted tax area sales or use tax credit).
- (O) The credit allowed by Section 17053.34 (relating to targeted tax area hiring credit).
- (P) The credit allowed by former Section 17053.49 (relating to qualified property).
- (Q) The credit allowed by former Section 17053.70 (relating to enterprise zone sales or use tax credit).
- (R) The credit allowed by Section 17053.74 (relating to enterprise zone hiring credit).
- (S) The credit allowed by Section 17054 (relating to credits for personal exemption).
- (T) The credit allowed by Section 17054.5 (relating to the credits for a qualified joint custody head of household and a qualified taxpayer with a dependent parent).
- (U) The credit allowed by Section 17054.7 (relating to the credit for a senior head of household).
- (V) The credit allowed by former Section 17057 (relating to clinical testing expenses).
- (W) The credit allowed by Section 17058 (relating to low-income housing).
- (X) For taxable years beginning on or after January 1, 2014, the credit allowed by Section 17059.2 (relating to GO-Biz California Competes Credit).
- (Y) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).
- (Z) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(AA) The credit allowed by Section 19002 (relating to tax withholding).

(AB) For taxable years beginning on or after January 1, 2014, the credit allowed by former Section 17053.86 (relating to the College Access Tax Credit Fund).

(AC) For taxable years beginning on or after January 1, 2017, the credit allowed by Section 17053.87 (relating to the College Access Tax Credit Fund).

(2) Any credit that is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately before being

repealed or becoming inoperative.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than spouses) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit shall be allocated among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of spouses who file separate returns, the credit may be taken by either or equally divided between them.

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

(g) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity shall be limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "net tax," as defined in subdivision (a), for the taxable year shall be limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 17062), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to that disregarded business entity. A credit shall not be allowed if the taxpayer's regular tax (as defined in Section 17062), determined by including the income attributable to the disregarded business entity, is less than the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (c) and (d).

(h) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-thru entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit before the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-thru entity" means any partnership or "S" corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year the credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

**SEC. 191.** Section 17062 of the Revenue and Taxation Code is amended to read:

**17062.** (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of:

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following applies:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, and before January 1, 2009, 7 percent.

(iii) For taxable years beginning on and after January 1, 2009, and before January 1, 2011, 7.25 percent.

(iv) For any taxable year beginning on or after January 1, 2011, 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term "alternative minimum taxable income of a nonresident or part-year resident" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing "alternative minimum taxable income of a nonresident or part-year resident," any carryover items, deferred income, suspended losses, or suspended deductions shall only be allowable to the extent that the carryover item, suspended loss, or suspended deduction was derived from sources within this state.

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, "qualified taxpayer" means a taxpayer who meets both of the following:

(i) Is the owner of, or has an ownership interest in, a trade or business.

(ii) Has aggregate gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the taxable year from all trades or businesses of which the taxpayer is the owner or has an ownership interest, in the amount of that taxpayer's proportionate interest in each trade or business.

(B) For purposes of this paragraph, "aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses that the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses that the taxpayer owns and of pass-through entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, "gross receipts, less returns and allowances" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(D) For purposes of this paragraph, "proportionate interest" means:

(i) In the case of a pass-through entity that reports a profit for the taxable year, the taxpayer's profit interest in the entity at the end of the taxpayer's taxable year.

(ii) In the case of a pass-through entity that reports a loss for the taxable year, the taxpayer's loss interest in the entity at the end of the taxpayer's taxable year.

(iii) In the case of a pass-through entity that is sold or liquidates during the taxable year, the taxpayer's capital account interest in the entity at the time of the sale or liquidation.

(E) (i) For purposes of this paragraph, "proportionate interest" includes an interest in a pass-through entity.

(ii) For purposes of this paragraph, "pass-through entity" means any of the following:

(I) A partnership, as defined by Section 17008.

(II) An "S" corporation, as provided in Chapter 4.5 (commencing with Section 23800) of Part 11.

(III) A regulated investment company, as provided in Section 24871.

(IV) A real estate investment trust, as provided in Section 24872.

(V) A real estate mortgage investment conduit, as provided in Section 24874.

(5) For taxable years beginning on or after January 1, 1998, Section 55(d)(1) of the Internal Revenue Code, relating to exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following exemption amounts in lieu of those contained therein:

(A) Fifty-seven thousand two hundred sixty dollars (\$57,260) in the case of either of the following:

(i) A joint return.

(ii) A surviving spouse.

(B) Forty-two thousand nine hundred forty-five dollars (\$42,945) in the case of an individual who is both of the following:

(i) Not a married individual.

(ii) Not a surviving spouse.

(C) Twenty-eight thousand six hundred thirty dollars (\$28,630) in the case of either of the following:

(i) A married individual who files a separate return.

(ii) An estate or trust.

(6) For taxable years beginning on or after January 1, 1998, Section 55(d)(3) of the Internal Revenue Code, relating to phaseout of exemption amount, is modified, for purposes of this part, to provide the following phaseout of exemption amounts in lieu of those contained therein:

(A) Two hundred fourteen thousand seven hundred twenty-five dollars (\$214,725) in the case of a taxpayer described in subparagraph (A) of paragraph (5).

(B) One hundred sixty-one thousand forty-four dollars (\$161,044) in the case of a taxpayer described in subparagraph (B) of paragraph (5).

(C) One hundred seven thousand three hundred sixty-two dollars (\$107,362) in the case of a taxpayer described in subparagraph (C) of paragraph (5).

(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar (\$1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, does not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph does not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code does not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code applies in any case in which the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year, and that section does not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, do not apply.

(e) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, do not apply.

(f) The provisions of Section 56(d)(3), relating to net operating loss attributable to federally declared disasters, do not apply.

**SEC. 192.** Section 17063 of the Revenue and Taxation Code is amended to read:

**17063.** (a) There shall be allowed as a credit against the net tax (as defined by Section 17039) for any taxable year an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, the amount determined under Section 53(c)(1) of the Internal Revenue Code shall be the regular tax as defined by paragraph (2) of subdivision (b) of Section 17062, reduced by the sum of the credits allowable under this part, other than:

(1) The credits described in paragraph (7) of subdivision (a) of Section 17039.

(2) A credit that reduces the tax below the tentative minimum tax, as defined by Section 17062.

(d) Section 53(e) of the Internal Revenue Code, relating to the special rule for individuals with long-term unused credits, does not apply.

**SEC. 193.** Section 17132.11 of the Revenue and Taxation Code is amended to read:

**17132.11.** (a) For taxable years beginning on or after January 1, 2014, gross income shall not include any loan amount repaid by the United States Secretary of Education or canceled pursuant to Section 1098e of Title 20 of the United States Code relating to income-based repayment.

(b) For taxable years beginning on or after January 1, 2017, and before January 1, 2022, gross income shall not include any loan amount repaid by the United States Secretary of Education or canceled pursuant to Section 1087e(e) of Title 20 of the United States Code relating to income-contingent repayment.

**SEC. 194.** Section 17276 of the Revenue and Taxation Code is amended to read:

**17276.** Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Section 172(b)(1)(E) of the Internal Revenue Code, relating to excess interest loss, and Section 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest losses, apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 taxable years" except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any taxable year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning before January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence does not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Acquired assets that constituted property described in Section 1221(a)(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(a)(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In a case in which a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In a case in which a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In a case in which the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1).

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7.

(h) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(i) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(j) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 apply to net operating losses for taxable years beginning on or after January 1, 2000.

**SEC. 195.** Section 17736 of the Revenue and Taxation Code is amended to read:

**17736.** (a) Section 642(c)(2) of the Internal Revenue Code is modified for purposes of this part by substituting "December 31, 1970" for "October 9, 1969" throughout that paragraph.

(b) In the case of a trust, the deduction allowed by Section 642(c) of the Internal Revenue Code is subject to Section 681 of the Internal Revenue Code, relating to limitation on charitable deduction.

**SEC. 196.** Section 17750 of the Revenue and Taxation Code is repealed.

**SEC. 197.** Section 18152 of the Revenue and Taxation Code is amended to read:

**18152.** Section 1202 of the Internal Revenue Code, relating to 50-percent exclusion for gain from certain small business stock, does not apply.

**SEC. 198.** Section 19133.5 of the Revenue and Taxation Code is repealed.

**SEC. 199.** Section 23802 of the Revenue and Taxation Code is amended to read:

**23802.** (a) Section 1363(a) of the Internal Revenue Code, relating to the taxability of an "S" corporation does not apply.

(b) Corporations that are "S" corporations under this chapter shall continue to be subject to the taxes imposed under Chapter 2 (commencing with Section 23101) and Chapter 3 (commencing with Section 23501), except as follows:

(1) The tax imposed under Section 23151 or 23501 shall be imposed at a rate of  $1\frac{1}{2}$  percent rather than the rate specified in those sections.

(2) In the case of an "S" corporation that is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) An "S" corporation is subject to the minimum franchise tax imposed under Section 23153.

(d) (1) For purposes of subdivision (b), an "S" corporation shall be allowed a deduction under Section 24416 or 24416.1 (relating to net operating loss deductions), but only with respect to losses incurred during periods in which the corporation is an "S" corporation for purposes of this part.

(2) Section 1371(b) of the Internal Revenue Code, relating to denial of carryovers between "C" years and "S" years, applies for purposes of the tax imposed under subdivision (b), except as provided in paragraph (1).

(3) The provisions of this subdivision do not affect the amount of any item of income or loss computed in accordance with the provisions of Section 1366 of the Internal Revenue Code, relating to pass-thru of items to shareholders.

(4) For purposes of subdivision (b) of Section 17276, relating to limitations on loss carryovers, losses passed through to shareholders of an "S" corporation, to the extent otherwise allowable without application of that subdivision, shall be fully included in the net operating loss of that shareholder and then that subdivision shall be applied to the entire net operating loss.

(e) For purposes of computing the taxes specified in subdivision (b), an "S" corporation shall be allowed a deduction from income for built-in gains and passive investment income for which a tax has been imposed under this part in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, or Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b):

(1) An "S" corporation shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual. For purposes of the tax imposed under Section 23151 or 23501, as modified by this section, material participation shall be determined in accordance with Section 469(h) of the Internal Revenue Code, relating to certain closely held "C" corporations and personal service corporations.

(B) For purposes of this paragraph, the "adjusted gross income" of the "S" corporation shall be equal to its "net income," as determined under Section 24341 with the modifications required by this subdivision, except that a deduction shall not be allowed for contributions allowed by Section 24357.

(4) The deduction for bad debts under paragraph (2) of subdivision (a) of Section 24348 shall not be allowed to an "S" corporation.

(g) (1) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 19101 in lieu of Section 6601 of the Internal Revenue Code.

(2) For purposes of Section 19023, relating to the definition of "estimated tax," and Section 19142, relating to an addition to tax for underpayment of estimated tax, the tax imposed pursuant to this subdivision is not a tax imposed by this part.

**SEC. 200.** Section 34010 of the Revenue and Taxation Code is amended to read:

**34010.** For purposes of this part:

(a) "Arm's length transaction" shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(b) "Average market price" shall mean:

(1) In an arm's length transaction, the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the department on a biannual basis in six-month intervals.

(2) In a nonarm's length transaction, the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.

(c) "Department" means the California Department of Tax and Fee Administration or its successor agency.

(d) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs.

(e) "Tax Fund" means the California Cannabis Tax Fund created by Section 34018.

(f) "Cannabis" has the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.

(g) "Cannabis products" has the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.

(h) "Cannabis flowers" means the dried flowers of the cannabis plant as defined by the board.

(i) "Cannabis leaves" means all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

(j) "Cannabis retailer" means a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(k) "Cultivator" means all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(l) "Distributor" means a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(m) "Enters the commercial market" means cannabis or cannabis product, except for immature cannabis plants and seeds, that complete and comply with a quality assurance review and testing, as described in Section 26110 of the Business and Professions Code.

(n) "Gross receipts" has the same meaning as set forth in Section 6012.

(o) "Microbusiness" has the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(p) "Nonprofit" has the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

(q) "Person" has the same meaning as set forth in Section 6005.

(r) "Retail sale" has the same meaning as set forth in Section 6007.

(s) "Sale" and "purchase" mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

(t) "Transfer" means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(u) "Unprocessed cannabis" includes cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

(v) "Manufacturer" means a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

**SEC. 201.** Section 34011 of the Revenue and Taxation Code is amended to read:

**34011.** (a) (1) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(2) Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that includes a statement that reads: "The cannabis excise taxes are included in the total amount of this invoice."

(3) The department may prescribe other means to display the cannabis excise tax on an invoice, receipt, or other document from a cannabis retailer given to the purchaser.

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the department pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the department.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use taxes under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

**SEC. 202.** Section 34018 of the Revenue and Taxation Code is amended to read:

**34018.** (a) The California Cannabis Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Cannabis Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section

16300) of Part 2 of Division 4 of Title 2 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered “moneys” for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

**SEC. 203.** Section 60050 of the Revenue and Taxation Code is amended to read:

**60050.** (a) (1) A tax of sixteen cents (\$0.16) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(2) If the federal fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1) shall be increased by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal what it would have been in the absence of the federal reduction.

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

(b) On and after November 1, 2017, in addition to the tax imposed pursuant to subdivision (a), an additional tax of twenty cents (\$0.20) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(c) On July 1, 2020, and every July 1 thereafter, the State Board of Equalization shall adjust the taxes imposed by subdivisions (a) and (b), with the adjustment to apply to both the base tax rates specified in those provisions and to any previous adjustment in rates made pursuant to this subdivision, by increasing the taxes by a percentage amount equal to the increase in the California Consumer Price Index, as calculated by the Department of Finance with the resulting taxes rounded to the nearest one-tenth of one cent (\$0.01). The first adjustment pursuant to this subdivision shall be a percentage amount equal to the increase in the California Consumer Price Index from November 1, 2017, to November 1, 2019. Subsequent annual adjustments shall cover subsequent 12-month periods. The incremental change shall be added to the associated rate for that year.

(d) Changes to the taxes imposed under this section that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base tax rates for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to subdivision (c).

**SEC. 204.** Section 155.7 of the Streets and Highways Code is amended to read:

**155.7.** (a) On or before April 1, 2018, the Secretary of Transportation, in consultation with the Secretary of the Natural Resources Agency, shall establish a Transportation Permitting Task Force consisting of the following members:

- (1) The Secretary of Transportation or his or her designee.
- (2) The Secretary of the Natural Resources Agency or his or her designee.
- (3) The Chair of the California Transportation Commission or his or her designee.
- (4) Representatives from the following:
  - (A) Department of Transportation.
  - (B) Department of Fish and Wildlife.
  - (C) The State Water Resources Control Board.
  - (D) Regional water quality control boards.
  - (E) The California Coastal Commission.
  - (F) Other relevant state or public entities.

(b) The taskforce shall develop a structured coordination process for early engagement of all parties in the development of transportation projects to reduce permit processing time, establish reasonable deadlines for permit approvals, and provide for greater certainty of permit approval requirements.

(c) (1) On or before December 1, 2019, the Secretary of Transportation shall prepare and submit to the appropriate policy and fiscal committees of the Legislature, pursuant to Section 9795 of the Government Code, a report of findings based on the efforts of the taskforce. The report shall include, but is not limited to, a detailed analysis of the following issues:

(A) The existing permitting process for transportation projects in California, including a discussion of the points in the process where delays are most likely to occur.

(B) The utilization of existing positions in the various state resource agencies currently supported by transportation funds, including an analysis of the benefits of those positions to the state's transportation programs relative to their costs.

(C) The process developed pursuant to subdivision (b).

(D) Resource levels needed at the resource agencies to implement the process developed pursuant to subdivision (b).

(E) Legislative or regulatory issues, if any, that need to be addressed to implement the process developed pursuant to subdivision (b).

(2) Pursuant to Section 10231.5 of the Government Code, this subdivision shall be inoperative on December 1, 2023.

**SEC. 205.** Section 2032 of the Streets and Highways Code is amended to read:

**2032.** (a) (1) After deducting the amounts appropriated in the annual Budget Act, as provided in Section 2031.5, two hundred million dollars (\$200,000,000) of the remaining revenues deposited in the Road Maintenance and Rehabilitation Account shall be set aside annually for local or regional transportation agencies that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees as defined by subdivision (b) of Section 8879.67 of the Government Code, which taxes or fees are dedicated solely to transportation improvements. The Controller shall each month set aside one-twelfth of this amount, except in fiscal year 2017–18, the Controller shall set aside one-eighth of this amount, to accumulate a total of two hundred million dollars (\$200,000,000) in each fiscal year. The Controller may adjust the amount in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision.

(2) Eligible projects under this subdivision include, but not are limited to, sound walls for a freeway that was built before 1987 without sound walls and with or without high-occupancy vehicle lanes if the completion of the sound walls has been deferred due to lack of available funding for at least 20 years and a noise barrier scope summary report has been completed within the last 20 years.

(3) Notwithstanding Section 13340 of the Government Code, the funds available under this subdivision in each fiscal year are hereby continuously appropriated for allocation by the commission for road maintenance and rehabilitation and other transportation improvement projects pursuant to Section 2033.

(b) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amount allocated in subdivision (a), beginning in the 2017–18 fiscal year, one hundred million dollars (\$100,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, on the Active Transportation Program created pursuant to Chapter 8 (commencing with Section 2380) of Division 3 to be allocated by the California Transportation Commission pursuant to Section 2381. The Controller shall each month set aside one-twelfth of this amount, except in the 2017–18 fiscal year, when the Controller shall set aside one-eighth of this amount, to accumulate a total of one hundred million dollars (\$100,000,000) in each fiscal year. The Controller may adjust the amount in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision.

(c) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a) and (b), beginning in the 2017–18 fiscal year, four hundred million dollars (\$400,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, by the department for bridge and culvert maintenance and rehabilitation. The Controller shall each month set aside one-twelfth of this amount, except in the 2017–18 fiscal year, when the Controller shall set aside one-eighth of this amount, to accumulate a total of four hundred million dollars (\$400,000,000) in each fiscal year. The Controller may adjust the amount in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision.

(d) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), and (c), beginning in the 2017–18 fiscal year, twenty-five million dollars (\$25,000,000) of the remaining revenues shall be transferred annually to the State Highway Account for expenditure, upon appropriation by the Legislature, to supplement the freeway service patrol program. The Controller shall each month set aside one-twelfth of this amount, except in the 2017–18 fiscal year, when the Controller shall set aside one-eighth of this amount, to accumulate a total of twenty-five million dollars (\$25,000,000) in each fiscal year. The Controller may adjust the amount in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision.

(e) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), and (d), in the 2017–18, 2018–19, 2019–20, 2020–21, and 2021–22 fiscal years, from revenues in the Road Maintenance and Rehabilitation Account that are not subject to Article XIX of the California Constitution, five million dollars (\$5,000,000) shall be appropriated in each fiscal year to the California Workforce Development Board to assist local agencies to

implement policies to promote preapprenticeship training programs to carry out the projects that are funded by the account pursuant to Section 2038. Funds appropriated pursuant to this subdivision in the Budget Act but remaining unexpended at the end of each applicable fiscal year shall be reappropriated for the same purposes in the following year's Budget Act, but all funds appropriated or reappropriated pursuant to this subdivision in the Budget Act shall be liquidated no later than June 30, 2027.

(f) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), (d), and (e), beginning in the 2017–18 fiscal year, twenty-five million dollars (\$25,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, by the department for local planning grants, as described in Section 2033.5. The Controller shall each month set aside one-twelfth of this amount, except in the 2017–18 fiscal year, when the Controller shall set aside one-eighth of this amount, to accumulate a total of twenty-five million dollars (\$25,000,000) in each fiscal year. The Controller may adjust the amount in the final month or months of each fiscal year if necessary to achieve the annual amount specified in this subdivision.

(g) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), (d), (e), and (f), beginning in the 2017–18 fiscal year and each fiscal year thereafter, from the remaining revenues, five million dollars (\$5,000,000) shall be available, upon appropriation, to the University of California for the purpose of conducting transportation research and two million dollars (\$2,000,000) shall be available, upon appropriation, to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development. Before the start of each fiscal year, the Secretary of Transportation and the chairs of the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing may set out a recommended priority list of research components to be addressed in the upcoming fiscal year.

(h) Notwithstanding Section 13340 of the Government Code, the balance of the revenues deposited in the Road Maintenance and Rehabilitation Account are hereby continuously appropriated as follows:

(1) Fifty percent for allocation to the department for maintenance of the state highway system or for purposes of the state highway operation and protection program.

(2) Fifty percent for apportionment to cities and counties by the Controller pursuant to the formula in clauses (i) and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of Section 2103 for the purposes authorized by this chapter.

**SEC. 206.** Section 30911 of the Streets and Highways Code is amended to read:

**30911.** (a) The authority shall control and maintain the Bay Area Toll Account and other subaccounts it deems necessary and appropriate to document toll revenue and operating expenditures in accordance with generally accepted accounting principles.

(b) (1) After providing for expenditures pursuant to subdivision (a) of Section 30912 and for operating assistance pursuant to subdivision (d) of Section 30914 and subdivision (c) of Section 30914.7 and after the requirements of any bond resolution or indenture of the authority for any outstanding revenue bonds have been met, the authority shall transfer on a regularly scheduled basis as set forth in the authority's annual budget resolution, the revenues defined in subdivision (b) of Section 30913 and Sections 30914 and 30914.7 to the commission. The funds transferred to the commission shall be expended for the purposes specified in subdivision (b) of Section 30913 and Sections 30914 and 30914.7. After the commission makes a determination that the projects and programs funded by the commission have been completed, the revenues transferred to the commission shall be expended by the commission for supplemental funding for the projects and programs identified in subdivision (a) of Section 30914.7 if the voters approve a toll increase authorized pursuant to Section 30923.

(2) For purposes of paragraph (1), the revenues defined in subdivision (b) of Section 30913 and subdivision (a) of Section 30914 include all revenues accruing since January 1, 1989.

**SEC. 207.** Section 30914.7 of the Streets and Highways Code is amended to read:

**30914.7.** (a) If the voters approve a toll increase pursuant to Section 30923, the authority shall, consistent with the provisions of this section fund the projects and programs described in this subdivision that shall collectively be known as the Regional Measure 3 expenditure plan by bonding or transfers to the Metropolitan Transportation Commission. These projects and programs have been determined to reduce congestion or to make improvements to travel in the toll bridge corridors, from toll revenues of all bridges:

(1) BART Expansion Cars. Purchase new railcars for the Bay Area Rapid Transit District (BART) to expand its fleet and improve reliability. The project sponsor is BART. Five hundred million dollars (\$500,000,000).

(2) Bay Area Corridor Express Lanes. Fund the environmental review, design, and construction of express lanes to complete the Bay Area Express Lane Network, including supportive operational improvements to connecting transportation facilities. Eligible projects include, but are not limited to, express lanes on Interstate 80, Interstate 580, and Interstate 680 in the Counties

of Alameda and Contra Costa, Interstate 880 in the County of Alameda, Interstate 280 in the City and County of San Francisco, Highway 101 in the City and County of San Francisco and the County of San Mateo, State Route 84 and State Route 92 in the Counties of Alameda and San Mateo, Interstate 80 from Red Top Road to the intersection with Interstate 505 in the County of Solano, and express lanes in the County of Santa Clara. Eligible project sponsors include the Bay Area Infrastructure Financing Authority, and any countywide or multicounty agency in a bay area county that is authorized to implement express lanes. The Metropolitan Transportation Commission shall make funds available based on performance criteria, including benefit-cost and project readiness. Three hundred million dollars (\$300,000,000).

(3) Goods Movement and Mitigation. Provide funding to reduce truck traffic congestion and mitigate its environmental effects. Eligible projects include, but are not limited to, improvements in the County of Alameda to enable more goods to be shipped by rail, access improvements on Interstate 580, Interstate 80, and Interstate 880, and improved access to the Port of Oakland. The Metropolitan Transportation Commission shall consult and coordinate with the Alameda County Transportation Commission to select projects for the program. Eligible applicants include cities, counties, countywide transportation agencies, rail operators, and the Port of Oakland. The project sponsors are the Metropolitan Transportation Commission and the Alameda County Transportation Commission. One hundred sixty million dollars (\$160,000,000).

(4) San Francisco Bay Trail/Safe Routes to Transit. Provide funding for a competitive grant program to fund bicycle and pedestrian access improvements on and in the vicinity of the state-owned toll bridges connecting to rail transit stations and ferry terminals. Eligible applicants include cities, counties, transit operators, school districts, community colleges, and universities. The project sponsor is the Metropolitan Transportation Commission. One hundred fifty million dollars (\$150,000,000).

(5) Ferry Enhancement Program. Provide funding to purchase new vessels, upgrade and rehabilitate existing vessels, build facilities and landside improvements, and upgrade existing facilities. The project sponsor is the San Francisco Bay Area Water Emergency Transportation Authority. Three hundred million dollars (\$300,000,000).

(6) BART to San Jose Phase 2. Extend BART from Berryessa Station to San Jose and Santa Clara. The project sponsor is the Santa Clara Valley Transportation Authority. Three hundred seventy-five million dollars (\$375,000,000).

(7) Sonoma-Marin Area Rail Transit District (SMART). Provide funding to extend the rail system north of the Charles M. Schulz-Sonoma County Airport to the Cities of Windsor and Healdsburg. The project sponsor is the Sonoma-Marin Area Rail Transit District. Forty million dollars (\$40,000,000).

(8) Capitol Corridor. Provide funding for track infrastructure that will improve the performance of Capital Corridor passenger rail operations by reducing travel times, adding service frequencies, and improving system safety and reliability. The project sponsor is the Capital Corridor Joint Powers Authority. Ninety million dollars (\$90,000,000).

(9) Caltrain Downtown Extension. Extend Caltrain from its current terminus at Fourth Street and King Street to the Transbay Transit Center. The Metropolitan Transportation Commission shall allocate funding to the agency designated to build the project, which shall be the project sponsor. Three hundred twenty-five million dollars (\$325,000,000).

(10) MUNI Fleet Expansion and Facilities. Fund replacement and expansion of the San Francisco Municipal Transportation Agency's MUNI vehicle fleet and associated facilities. The project sponsor is the San Francisco Municipal Transportation Agency. One hundred forty million dollars (\$140,000,000).

(11) Core Capacity Transit Improvements. Implement recommendations from the Core Capacity Transit Study and other ideas to maximize person throughput in the transbay corridor. Eligible projects include, but are not limited to, transbay bus improvements and high-occupancy vehicle (HOV) lane access improvements. Priority funding shall be the Alameda-Contra Costa Transit District's (AC Transit) Tier 1 and Tier 2 projects identified in the study. The project sponsors are the Metropolitan Transportation Commission, Alameda County Transportation Commission, and AC Transit. One hundred forty million dollars (\$140,000,000).

(12) Alameda-Contra Costa Transit District (AC Transit) Rapid Bus Corridor Improvements. Fund bus purchases and capital improvements to reduce travel times and increase service frequency along key corridors. The project sponsors are AC Transit and Alameda County Transportation Commission. One hundred million dollars (\$100,000,000).

(13) Transbay Rail Crossing. Fund preliminary engineering, environmental review, and design of a second transbay rail crossing and its approaches to provide additional rail capacity, increased reliability, and improved resiliency to the corridor. Subject to approval by the Metropolitan Transportation Commission, funds may also be used for construction, and, if sufficient matching funds are secured, to fully fund a useable segment of the project. The project sponsor is the Bay Area Rapid Transit District. Fifty million dollars (\$50,000,000).

- (14) Tri-Valley Transit Access Improvements. Provide interregional and last-mile transit connections on the Interstate 580 corridor in the County of Alameda within the Tri-Valley area of Dublin, Pleasanton, and Livermore. The Metropolitan Transportation Commission shall consult with the Alameda County Transportation Commission, the Bay Area Rapid Transit District, and local jurisdictions to determine the project sponsor. One hundred million dollars (\$100,000,000).
- (15) Eastridge to BART Regional Connector. Extend Santa Clara Valley Transportation Authority light rail from the Alum Rock station to the Eastridge Transit Center. The project sponsor is the Santa Clara Valley Transportation Authority. One hundred thirty million dollars (\$130,000,000).
- (16) San Jose Diridon Station. Redesign, rebuild, and expand Diridon Station to more efficiently and effectively accommodate existing regional rail services, future BART and high-speed rail service, and Santa Clara Valley Transportation Authority light rail and buses. The project sponsor shall consider accommodating a future connection to Norman Y. Mineta San Jose International Airport and prioritizing non-auto access modes. The project sponsor is the Santa Clara Valley Transportation Authority. One hundred million dollars (\$100,000,000).
- (17) Dumbarton Corridor Improvements. Fund planning, environmental review, design, and construction of capital improvements within Dumbarton Bridge and rail corridor in the Counties of Alameda and San Mateo to relieve congestion, increase person throughput, and offer reliable travel times. Eligible projects include, but are not limited to, the projects recommended in the Dumbarton Corridor Transportation Study and improvements to facilitate rail and transit connectivity among the Altamont Corridor Express, Capitol Corridor, and Bay Area Rapid Transit District, including a rail connection at Shinn Station. The project sponsors are the Bay Area Toll Authority, Alameda County Transportation Commission, the San Mateo County Transit District, and the San Mateo County Transportation Authority. One hundred thirty million dollars (\$130,000,000).
- (18) Highway 101/State Route 92 Interchange. Fund improvements to the interchange of Highway 101 and State Route 92 in the County of San Mateo. The project is jointly sponsored by the City/County Association of Governments of San Mateo County and the San Mateo County Transportation Authority. Fifty million dollars (\$50,000,000).
- (19) Contra Costa Interstate 680/State Route 4 Interchange Improvements. Fund improvements to the Interstate 680/State Route 4 interchange to improve safety and reduce congestion, including, but not limited to, a new direct connector between northbound Interstate 680 and westbound State Route 4, a new direct connector between eastbound State Route 4 and southbound Interstate 680, and widening of State Route 4 to add auxiliary lanes and high-occupancy vehicle lanes. The project sponsor is the Contra Costa Transportation Authority. Two hundred ten million dollars (\$210,000,000).
- (20) Highway 101-Marin/Sonoma Narrows. Construct northbound and southbound high-occupancy vehicle lanes on Highway 101 between Petaluma Boulevard South in Petaluma and Atherton Avenue in Novato. The project sponsors are the Transportation Authority of Marin and the Sonoma County Transportation Authority. One hundred twenty million dollars (\$120,000,000).
- (21) Solano County Interstate 80/Interstate 680/State Route 12 Interchange Project. Construct Red Top Road interchange and westbound Interstate 80 to southbound Interstate 680 connector. The project sponsor is the Solano Transportation Authority. One hundred fifty million dollars (\$150,000,000).
- (22) Interstate 80 Westbound Truck Scales. Improve freight mobility, reliability, and safety on the Interstate 80 corridor by funding improvements to the Interstate 80 Westbound Truck Scales in the County of Solano. The project sponsor is the Solano Transportation Authority. One hundred five million dollars (\$105,000,000).
- (23) State Route 37 Improvements. Fund near-term and longer-term improvements to State Route 37 to improve the roadway's mobility, safety, and long-term resiliency to sea level rise and flooding. For the purposes of the environmental review and design, the project shall include the segment of State Route 37 from the intersection in Marin County with Highway 101 to the intersection with Interstate 80 in the County of Solano. Capital funds may be used on any segment along this corridor, as determined by the project sponsors. The project is jointly sponsored by the Transportation Authority of Marin, the Napa Valley Transportation Authority, the Solano Transportation Authority, and the Sonoma County Transportation Authority. Funds for this project may be allocated to any of the project sponsors. One hundred million dollars (\$100,000,000).
- (24) San Rafael Transit Center. Construct a replacement to the San Rafael (Bettini) Transit Center on an existing or new site, or both, in downtown San Rafael. The selected alternative shall be approved by the City of San Rafael, the Golden Gate Bridge, Highway and Transportation District, the Transportation Authority of Marin, and Marin Transit. The project sponsor is the Golden Gate Bridge, Highway and Transportation District. Thirty million dollars (\$30,000,000).
- (25) Richmond-San Rafael Bridge Access Improvements. Fund eastbound and westbound improvements in the Richmond-San Rafael Bridge corridor, including a direct connector from northbound Highway 101 to eastbound Interstate 580, westbound access and operational improvements in the vicinity of the toll plaza east of the bridge in Contra Costa County, and Richmond Parkway interchange improvements. Of the amount allocated to this project, one hundred thirty-five million dollars

(\$135,000,000) shall be dedicated to the direct connector from northbound Highway 101 to eastbound Interstate 580 in Marin County and seventy-five million dollars (\$75,000,000) shall be dedicated to the projects in Contra Costa County. The project sponsors are the Bay Area Toll Authority, the Contra Costa Transportation Authority, and the Transportation Authority of Marin. Two hundred ten million dollars (\$210,000,000).

(26) North Bay Transit Access Improvements. Provide funding for transit improvements, including, but not limited to, bus capital projects, including vehicles, transit facilities, and access to transit facilities, benefiting the Counties of Marin, Sonoma, Napa, Solano, and Contra Costa. Priority shall be given to projects that are fully funded, ready for construction, and serving rail transit or transit service that operates primarily on existing or fully funded high-occupancy vehicle lanes. The project sponsor is the Metropolitan Transportation Commission. Eligible applicants are any transit operator providing service in the Counties of Contra Costa, Marin, Napa, Solano, or Sonoma. One hundred million dollars (\$100,000,000).

(27) State Route 29. Eligible project expenses include State Route 29 major intersection improvements, including Soscot Junction, and signal and signage improvements, which may include multimodal infrastructure and safety improvements between Carneros Highway (State Route 12/121) and American Canyon Road. The project sponsor is the Napa Valley Transportation Authority. Twenty million dollars (\$20,000,000).

(28) Next-Generation Clipper Transit Fare Payment System. Provide funding to design, develop, test, implement, and transition to the next generation of Clipper, the bay area's transit fare payment system. The next-generation system will support a universal, consistent, and seamless transit fare payment system for the riders of transit agencies in the bay area. The project sponsor is the Metropolitan Transportation Commission. Fifty million dollars (\$50,000,000).

(29) Interstate 680/Interstate 880/Route 262 Freeway Connector. Connect Interstate 680 and Interstate 880 in southern Alameda County to improve traffic movement, reduce congestion, and improve operations and safety. The project sponsor is the Alameda County Transportation Commission. Fifteen million dollars (\$15,000,000).

(30) Interstate 680/State Route 84 Interchange Reconstruction Project. Improve safety and regional and interregional connectivity by conforming State Route 84 to expressway standards between south of Ruby Hill Drive and the Interstate 680 interchange in southern Alameda County and implementing additional improvements to reduce weaving and merging conflicts and help address the additional traffic demand between Interstate 680 and State Route 84. The project sponsor is the Alameda County Transportation Commission. Eighty-five million dollars (\$85,000,000).

(31) Interstate 80 Transit Improvements. Fund improvements to support expanded bus service in the Interstate 80 corridor including, but not limited to, bus purchases, expansion of the WestCAT storage yard and maintenance facility. Fund implementation of the San Pablo Avenue Multi-modal Corridor (AC Transit). The project sponsor is the Contra Costa Transportation Authority. Twenty-five million dollars (\$25,000,000).

(32) Byron Highway-Vasco Road Airport Connector. Fund construction of a new connector between Byron Highway and Vasco Road south of Camino Diablo Road as well as shoulder and other improvements to the Byron Highway, including a railroad grade separation, to improve safety and access to the Byron Airport and to facilitate economic development and access for goods movement in East Contra Costa County. The project sponsor is the Contra Costa Transportation Authority. Ten million dollars (\$10,000,000).

(33) Vasco Road Safety Improvements. Fund the widening of lanes and construction of a concrete median barrier along 2.5 miles of Vasco Road beginning approximately three miles north of the Contra Costa/Alameda County Line. The project sponsor is the Contra Costa Transportation Authority. Fifteen million dollars (\$15,000,000).

(34) East Contra Costa County Transit Intermodal Center. Fund the construction of a Transit Intermodal Center in Brentwood enhancing access to eBART and Mokelumne Bike Trail/Pedestrian Overcrossing at State Route 4. The project sponsor is the Contra Costa Transportation Authority. Fifteen million dollars (\$15,000,000).

(35) Interstate 680 Transit Improvements. Fund improvements that will enhance transit service in the Interstate 680 corridor, including, but not limited to, implementing bus operations on shoulder (BOS), technology-based intermodal transit centers/managed parking lots and development of technology to enhance real-time travel information. Fund implementation of Shared Autonomous Vehicles (SAVs) to improve first and last mile transit connectivity. The project sponsor is the Contra Costa Transportation Authority. Ten million dollars (\$10,000,000).

(b) Pursuant to subdivision (a) of Section 30923, if the authority selects a toll increase to be placed on the ballot in an amount less than three dollars (\$3), the funding assigned to the projects and programs identified in subdivision (a) shall be adjusted proportionately to account for reduced funding capacity. The authority shall adopt a resolution detailing the updated Regional Measure 3 capital and operating funding available and listing the revised funding amounts for each project within 90 days of the certification of the election by the last county to certify the election on the toll increase. The authority shall update this resolution as needed to reflect additional tolls approved in subsequent elections.

(c) (1) Not more than 16 percent, up to sixty million dollars (\$60,000,000), of the revenues generated each year from the toll increase approved by the voters pursuant to Section 30923 shall be made available annually for the purpose of providing operating assistance as set forth in the authority's annual budget resolution for the purposes listed in paragraph (2). The funds shall be made available to the provider of the transit services subject to the performance measures described in paragraph (3).

(2) The Metropolitan Transportation Commission shall annually fund the following operating programs from the revenue generated each year from the toll increase approved by the voters pursuant to Section 30923 as another component of the Regional Measure 3 expenditure plan:

(A) The San Francisco Transbay Terminal. Eight percent of the amount available for operating assistance pursuant to paragraph (1), not to exceed five million dollars (\$5,000,000). These funds are available for transportation-related costs associated with operating the terminal. The Transbay Joint Powers Authority shall pursue other long-term, dedicated operating revenue to fund its operating costs. To the extent that a portion or all of the toll revenue provided pursuant to this subparagraph is not needed in a given fiscal year, the Metropolitan Transportation Commission shall reduce the allocation accordingly.

(B) (i) Expanded Ferry Service. Ten million dollars (\$10,000,000) in the first year of allocation, fifteen million dollars (\$15,000,000) in the second year of allocation, twenty million dollars (\$20,000,000) in the third year of allocation, and twenty-five million dollars (\$25,000,000) in the fourth year of allocation. These allocation amounts shall be subject to the adjustments in subdivision (b). In the fifth year of allocation and thereafter, 58 percent of the amount available for operating assistance pursuant to paragraph (1), not to exceed thirty-five million dollars (\$35,000,000). These funds shall be made available to the San Francisco Bay Area Water Emergency Transportation Authority (WETA) to support expanded ferry service, including increased frequencies of existing routes and the operation of new routes.

(ii) To the extent that funds provided pursuant to clause (i) are not requested for expenditure by WETA in a given year, the funds shall be held by the authority in a reserve account. Those funds shall be made available to WETA for any capital or operating purpose. Before receiving an allocation of those funds, WETA shall submit a request to the Metropolitan Transportation Commission detailing how the funds shall be used. An allocation of those funds shall constitute an augmentation of the funding provided in paragraph (5) of subdivision (a) and be treated as such in any reports by the authority regarding the Regional Measure 3 expenditure plan.

(C) Regional Express Bus. Thirty-four percent of the amount available for operating assistance pursuant to paragraph (1), not to exceed twenty million dollars (\$20,000,000), to be distributed for bus service in the bridge corridors, prioritizing bus routes that carry the greatest number of transit riders. To the extent that a portion or all of the toll revenue provided pursuant to this subparagraph is not needed in a given fiscal year, the Metropolitan Transportation Commission shall reduce the allocation accordingly.

(3) Before the allocation of revenue for transit operating assistance under subparagraphs (A) and (C) of paragraph (2), the Metropolitan Transportation Commission shall:

(A) Adopt performance measures related to fare-box recovery, ridership, or other indicators, as appropriate. The performance measures shall be developed in consultation with the affected project sponsors.

(B) Execute an operating agreement with the sponsor of the project. This agreement shall include, but is not limited to, an operating plan that is consistent with the adopted performance measures. The agreement shall include a schedule of projected fare revenues or other forecast revenue and any other operating funding that will be dedicated to the service or terminal. For any individual project sponsor, this operating agreement may include additional requirements, as determined by the commission.

(C) In an operating agreement executed pursuant to subparagraph (B), the Metropolitan Transportation Commission shall grant a project sponsor at least five years to achieve the adopted performance measures. The Metropolitan Transportation Commission shall use a ridership forecast as the basis for performance measures adopted pursuant to subparagraph (A) and to establish performance measures in following years. If the transit service of a project sponsor does not achieve the performance measures within the timeframe granted to the project sponsor, the project sponsor shall notify the Metropolitan Transportation Commission. The Metropolitan Transportation Commission may revise the performance measures, extend the timeframe to achieve the performance measures, or take action to reduce the funding available for operations if the performance measures are not met within the new timeframe.

(4) Before Metropolitan Transportation Commission providing funding to the San Francisco Bay Area Water Emergency Transportation Authority (WETA) under subdivision (a) or this subdivision, WETA and the MTC shall do the following, as applicable:

(A) WETA shall adopt a plan that includes systemwide and route-specific performance measures related to fare-box recovery, ridership, and any other measures as deemed appropriate by WETA in consultation with MTC.

(B) WETA and MTC shall execute an operating agreement that establishes a five-year plan for new or enhanced services and outlines incremental steps needed to achieve a reasonable level of service productivity and cost-effectiveness as compared to similar ferry services provided across the bay area.

(C) After the time period identified in subparagraph (B), and if reasonable, but incomplete progress has been achieved to meet the performance measures identified in subparagraph (A), WETA, in consultation with MTC, may propose a new timeframe, not longer than an additional five years, to achieve the performance measures and take needed steps to remedy the service to meet the measures. In the event that the performance measures are not met within the new timeframe, WETA may seek additional time to achieve the measures and MTC may determine whether services should continue and may establish other conditions to service in consultation with WETA. In all cases, funds not spent or made available to WETA shall be returned to the reserve account established pursuant to clause (ii) of subparagraph (B) of paragraph (2).

(D) WETA shall use the plan identified in subparagraph (A) to prioritize the use of capital funding made available by this section to support its mission as the operator of ferry services.

(E) This section does not restrict WETA with respect to meeting its obligations as the coordinating agency for water transit response to regional emergencies.

(d) (1) For all projects authorized under subdivision (a), the project sponsor shall submit an initial project report to the Metropolitan Transportation Commission within six months of the election approving the toll increase. This report shall include all information required to describe the project in detail, including the status of any environmental documents relevant to the project, additional funds required to fully fund the project, the amount, if any, of funds expended to date, and a summary of any impediments to the completion of the project. This report, or an updated report, shall include a detailed financial plan and shall notify the commission if the project sponsor will request toll revenue within the subsequent 12 months. The project sponsor shall update this report as needed or requested by the commission. Funds shall not be allocated by the commission for any project authorized by subdivision (a) until the project sponsor submits the initial project report, and the report is reviewed and approved by the commission.

(2) If multiple project sponsors are listed for projects listed in subdivision (a), the commission shall identify a lead sponsor in coordination with all identified sponsors, for purposes of allocating funds. For any projects authorized under subdivision (a), the commission shall have the option of requiring a memorandum of understanding between itself and the project sponsor or sponsors that shall include any specific requirements that must be met before the allocation of funds provided under subdivision (a).

(e) If a program or project identified in subdivision (a) has cost savings after completion, taking into account construction costs and an estimate of future settlement claims, or cannot be completed or cannot continue due to delivery or financing obstacles making the completion or continuation of the program or project unrealistic, the commission shall consult with the program or project sponsor. After consulting with the sponsor, the commission shall hold a public hearing concerning the program or project. After the hearing, the commission may vote to modify the program or the project's scope, decrease its level of funding, or reassign some or all of the funds to another project within the same bridge corridor. If a program or project identified in subdivision (a) is to be implemented with other funds not derived from tolls, the commission shall follow the same consultation and hearing process described above and may vote thereafter to reassign the funds to another project consistent with the intent of this chapter.

(f) If the voters approve a toll increase pursuant to Section 30923, the authority shall within 24 months of the election date include the projects in a long-range bridge toll plan. The authority shall update its long-range plan as required to maintain its viability as a strategic plan for funding projects authorized by this section. The authority shall, by January 1, 2020, submit its updated long-range bridge toll plan to the transportation policy committee of each house of the Legislature for review. This subdivision, to the extent a plan is prepared under this section, supersedes the requirement to prepare and submit a 20-year toll bridge expenditure plan to the Legislature for adoption pursuant to subdivision (h) of Section 30914.

(g) This section does not alter the obligations of the Metropolitan Transportation Commission with respect to the requirements of Section 65080 of the Government Code.

**SEC. 208.** Section 545 of the Vehicle Code is amended to read:

**545.** (a) A "schoolbus" is a motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the 12th grade level to or from a public or private school or to or from public or private school activities, except the following:

(1) A motor vehicle of any type carrying only members of the household of the owner of the vehicle.

(2) A motortruck transporting pupils who are seated only in the passenger compartment, or a passenger vehicle designed for and carrying not more than 10 persons, including the driver, unless the vehicle or truck is transporting two or more disabled pupils confined to wheelchairs.

(3) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public, or on a run scheduled in response to a request from a disabled pupil confined to a wheelchair, or from a parent of the disabled pupil, for transportation to or from nonschool activities, and the motor vehicle is designed for and actually carries not more than 16 persons including the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(4) A school pupil activity bus.

(5) A motor vehicle operated by a carrier licensed by the federal Surface Transportation Board that is transporting pupils on a school activity entering or returning to the state from another state or country.

(6) A youth bus.

(7) Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, if it is primarily used for the transportation of community college students to or from a public community college or to or from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Department of the California Highway Patrol.

(8) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services if the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

(9) A general public paratransit vehicle, if the general public paratransit vehicle does not duplicate existing schoolbus service, does not transport a public school pupil at or below the 12th grade level to a destination outside of that pupil's school district, and is not used to transport public school pupils in areas where schoolbus services were available during the 1986–87 school year. In areas where expanded school services require expanded transportation of public school pupils, as determined by the governing board of a school district, general public paratransit vehicles shall not be used to transport those pupils for a period of three years from the date that a need for expansion is identified. For purposes of this section, a pupil is defined as a student at or below the 12th grade level who is being transported to a mandated school activity.

(10) A schoolbus with the flashing red light signal system, the amber warning system, and the schoolbus signs covered, while being used for transportation of persons other than pupils, to or from school or school-related activities.

(11) A motor vehicle, other than a motor vehicle described in paragraph (2), that is designed to carry not more than 25 persons including the driver, while being used for the transportation of pupils to or from school-related activities if the vehicle is operated by a passenger charter-party carrier certified and licensed by the Public Utilities Commission pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code that is not under a contractual agreement with a school or school district, and the transportation does not duplicate schoolbus service or any other transportation services for pupils contracted, arranged, or otherwise provided by the school or school district.

(b) This section shall not be construed to prohibit the use of a schoolbus for any activity authorized by any other law, including Section 39837.5 of the Education Code.

**SEC. 209.** Section 1808.1 of the Vehicle Code is amended to read:

**1808.1.** (a) The prospective employer of a driver who drives a vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days before the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives a vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the

department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive a vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of a vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The report shall be presented upon demand to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull-notice system.

(e) For the purposes of the pull-notice system and periodic report process required by subdivisions (b) and (c), an owner, other than an owner-operator as defined in Section 34624, and an employer who drives a vehicle described in subdivision (k) shall be enrolled as if he or she were an employee. A family member and a volunteer driver who drives a vehicle described in subdivision (k) shall also be enrolled as if he or she were an employee.

(f) An employer who, after receiving a driving record pursuant to this section, employs or continues to employ as a driver a person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by confinement in a county jail for not more than six months, by a fine of not more than one thousand dollars (\$1,000), or by both that confinement and fine.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. Funds shall not be allocated pursuant to Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator that the Department of the California Highway Patrol has not certified pursuant to this section.

(h) (1) A request to participate in the pull-notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. An employer who qualifies pursuant to Section 1812 shall be exempt from any fee required pursuant to this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(2) A regularly organized fire department, having official recognition of the city, county, city and county, or district in which the department is located, shall participate in the pull-notice program and shall not be subject to the fee established pursuant to this subdivision.

(3) The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, and its port agent shall participate in the pull-notice system established by this section, subject to Section 1178.5 of the Harbors and Navigation Code, and shall not be subject to the fees established pursuant to this subdivision.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports to an employer by mail or via an electronic delivery method, as required by subdivision (c), on a regular basis without the need for individual requests.

(j) (1) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull-notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, before allowing a casual driver to drive a vehicle specified in subdivision (k). A report is current if it was issued less than six months before the date the employer employs the driver.

(2) For the purposes of this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. "Casual driver" does not include a driver who operates a vehicle that requires a passenger transportation endorsement.

(k) This section applies to a vehicle for the operation of which the driver is required to have a class A or class B driver's license, a class C license with any endorsement issued pursuant to Section 15278, a class C license issued pursuant to Section 12814.7, or a certificate issued pursuant to Section 12517, 12519, 12520, 12523, 12523.5, or 12527, a passenger vehicle having a seating

capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission, or a permitted taxicab company as described in Section 53075.5 of the Government Code.

(l) This section shall not be construed to change the definition of “employer,” “employee,” or “independent contractor” for any purpose.

(m) A motor carrier who contracts with a person to drive a vehicle described in subdivision (k) that is owned by, or leased to, that motor carrier, is subject to subdivisions (a), (b), (c), (d), (f), (j), (k), and (l) and the employer obligations in those subdivisions.

(n) Reports issued pursuant to this section, but only those for a driver of a taxicab engaged in transportation service as described in subdivision (a) of Section 53075.5 of the Government Code, shall be presented upon request, during regular business hours, to an authorized representative of the administrative agency responsible for issuing permits to taxicab transportation services pursuant to Section 53075.5 of the Government Code.

**SEC. 210.** Section 22508.5 of the Vehicle Code is amended to read:

**22508.5.** (a) A vehicle may park, for up to the posted time limit, in any parking space that is regulated by an inoperable parking meter or an inoperable parking payment center.

(b) A vehicle may park without time limit in any parking space that does not have a posted time limit and that is regulated by an inoperable parking meter or inoperable parking payment center, subject to any other applicable regulations regarding parking vehicles.

(c) A local authority may limit parking to four hours for a parking space that does not have a posted time limit and that is regulated by an inoperable parking meter or an inoperable parking payment center, if the local authority posts signs clearly providing notice of the time limitation applicable when that parking meter or parking payment center is inoperable.

(d) If a parking space is regulated by a parking meter or parking payment center that cannot physically accept payment, a local authority shall not issue a citation for nonpayment of parking fees notwithstanding the fact that the parking meter or parking payment center may accept payment by other nonphysical means.

(e) Except as provided in subdivision (c), a local authority shall not, by ordinance or resolution, prohibit or restrict the parking of vehicles in a space that is regulated by an inoperable parking meter or inoperable parking payment center.

(f) For purposes of this section:

(1) “Inoperable parking meter” means a meter located next to and designated for an individual parking space that has become inoperable and cannot accept payment in any form or cannot register that a payment in any form has been made.

(2) “Inoperable parking payment center” means an electronic parking meter or pay station serving one or more parking spaces that is closest to the space where a person has parked and that cannot accept payment in any form, cannot register that a payment in any form has been made, or cannot issue a receipt that is required to be displayed in a conspicuous location on or in the vehicle.

**SEC. 211.** Section 25258 of the Vehicle Code is amended to read:

**25258.** (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) (1) An authorized emergency vehicle used by a peace officer, as defined in Section 830.1 of, subdivision (a), (b), (c), (d), (e), (f), (g), or (i) of Section 830.2 of, subdivision (n) of Section 830.3 of, subdivision (b) of Section 830.31 of, subdivision (a) or (b) of Section 830.32 of, Section 830.33 of, subdivision (a) of Section 830.36 of, subdivision (a) of Section 830.4 of, or Section 830.6 of, or a probation officer, as defined in Section 830.5 of, the Penal Code, in the performance of the peace officer’s duties, may, in addition, display a steady or flashing blue warning light visible from the front, sides, or rear of the vehicle.

(2) Before a probation officer operates an emergency vehicle with a blue warning light, the officer shall complete a four-hour classroom training course regarding the operation of emergency vehicles that is certified by the Standards and Training for Corrections Division of the Board of State and Community Corrections.

(3) This subdivision does not expand any existing authority of a probation officer to conduct a high-speed vehicle pursuit, nor does it change any existing training requirements for high-speed vehicle pursuits.

(c) Except as provided in subdivision (a), a vehicle shall not be equipped with a device that emits any illumination or radiation that is designed or used for the purpose of controlling official traffic control signals.

**SEC. 212.** Section 34687 of the Vehicle Code is amended to read:

**34687.** (a) Registration shall not be granted to a private carrier of passengers until proof of financial responsibility is filed by an insurer or surety with the department. The department may accept only a currently effective certificate of insurance issued by a company licensed to write that insurance in this state or by a nonadmitted insurer subject to Section 1763 of the Insurance Code, and only if the policy represented by the certificate meets the minimum insurance requirements contained in Section 34692, or a surety bond evidencing protection against liability imposed by law for the payment of damages for personal injury to, or death of, a person or property damage, or both. Each certificate shall be valid until canceled, and may only be canceled upon 30 days' written notice submitted to the department by the carrier or surety.

(b) Whenever the department determines that the certificate of insurance or surety bond of a private carrier of passengers has lapsed or been terminated, the department shall suspend the private carrier of passengers' registration. Registration of a private carrier or organization providing transportation services incidental to operation of a youth camp shall stand suspended immediately upon the effective date of the cancellation.

(c) The department shall notify the private carrier of passengers of an action taken under subdivision (b).

**SEC. 213.** Section 34692 of the Vehicle Code is amended to read:

**34692.** (a) Except as provided in subdivision (b), a private carrier of passengers, as defined in Section 34681, that is required to register under Section 34683 shall provide and thereafter continue in effect on each vehicle, so long as the carrier may be engaged in conducting those operations, adequate protection against liability imposed by law upon a carrier in accordance with the following:

(1) For the payment of damages for bodily injury to, or death of, one person in any one accident in the amount of at least fifteen thousand dollars (\$15,000).

(2) Subject to the limit for one person, in the amount of at least thirty thousand dollars (\$30,000) for bodily injury to, or death of, two or more persons in any one accident.

(3) For injury to, or destruction of, property of others in the amount of at least five thousand dollars (\$5,000) for any one accident.

(b) Transportation services incidental to operation of a youth camp that are provided by either a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501 (c)(3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)), or an organization that operates an organized camp, as defined in Section 18897 of the Health and Safety Code, serving youth 18 years of age or younger shall provide and thereafter continue in effect, so long as it may be engaged in conducting those operations, the following minimum amounts of general liability insurance coverage for vehicles that are used to transport youth:

(1) A minimum of five hundred thousand dollars (\$500,000) of general liability insurance coverage for passenger vehicles designed to carry up to eight passengers. For organized camps, as defined in Section 18897 of the Health and Safety Code, there shall be an additional two hundred fifty thousand dollars (\$250,000) of general umbrella policy that covers vehicles.

(2) A minimum of one million dollars (\$1,000,000) of general liability insurance coverage for vehicles designed to carry up to 15 passengers. For organized camps, as defined in Section 18897 of the Health and Safety Code, there shall be an additional five hundred thousand dollars (\$500,000) of general umbrella policy that covers vehicles.

(3) A minimum of one million five hundred thousand dollars (\$1,500,000) of general liability insurance coverage for vehicles designed to carry more than 15 passengers, and an additional three million five hundred thousand dollars (\$3,500,000) of general umbrella liability insurance policy that covers vehicles.

**SEC. 214.** Section 189.3 of the Water Code is amended to read:

**189.3.** (a) The board, in consultation with the regional water quality control boards, and the Division of the State Architect within the Department of General Services shall recommend best design and use practices for storm water and dry weather runoff capture practices that can generally be applied to all new, reconstructed, or altered public schools, including school grounds.

(b) The board shall submit the recommendations to the Governor and the Legislature on or before January 1, 2019.

(c) The board and the State Department of Education shall post the recommendations on their respective Internet Web sites on or before March 1, 2019.

(d) For purposes of this section, "storm water and dry weather runoff capture practices" means practices to control water pollutants, pollutant loads, and water runoff volume exiting a site to the maximum extent feasible by minimizing impervious surface area and controlling runoff from impervious surfaces through infiltration, evapotranspiration, bioretention, treatment, and rainfall harvest.

(e) (1) The reporting requirement pursuant to subdivision (b) shall be inoperative on January 1, 2023, pursuant to Section 10231.5 of the Government Code.

(2) A report submitted to the Legislature pursuant to subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.

**SEC. 215.** Section 1825 of the Water Code is amended to read:

**1825.** It is the intent of the Legislature that the state take vigorous action to enforce the terms and conditions of permits, licenses, certifications, and registrations to appropriate water, to enforce state board orders and decisions, and to prevent the unlawful diversion of water.

**SEC. 216.** Section 7049 of the Water Code is amended to read:

**7049.** (a) Upon an appropriation of funds from the Legislature, the department shall establish a program to implement watershed-based riverine and riparian stewardship improvements by providing technical and financial assistance in support of projects that reduce flood risk, restore and enhance fish populations and habitat, improve water quality, achieve climate change benefits, and in general ensure resilient ecological function within areas that include, but are not limited to, urban or urbanizing areas of the state.

(b) The program shall support the purposes of and be coordinated with the Urban Streams Restoration Program established pursuant to Section 7048, fish passage improvements, and other similar programs to accomplish increased ecological, stream management, climate, and community improvement benefits from state and other funds available for riverine stewardship projects. The department may participate in and support local partnerships, including, but not limited to, in disadvantaged communities, to ensure projects incorporate the best-available science, assessment data, and ecologically relevant practices, and address state and local community needs and priorities.

(c) The program shall include all of the following elements:

(1) Support for partnerships with local agencies, nonprofit organizations, resource conservation districts, and community groups to identify multibenefit opportunities, local needs, and watershed restoration or enhancement objectives. Partnerships shall include local community nonprofit organizations and other state agencies as appropriate and to the degree those agencies and organizations are able to participate.

(2) Early engagement by the department. Engagement in conceptualizing and defining the project shall be prioritized over the design, construction, and operation of a completed project.

(3) Assistance in planning the natural resource restoration, landscaping, and infrastructure elements of a project consistent with appropriate local and regional land use and resource recovery plans.

(4) Design assistance to ensure a project will protect or enhance natural river and stream process and function using the best bioengineering and ecological practices while considering low-impact development, energy and water conservation, and community access and use for local recreation, trails, and other purposes.

(5) Evaluation and assessment processes to monitor success in meeting riverine stewardship goals and community needs.

(6) Assistance, as appropriate, with project administration, including, but not limited to, communication among partnership groups, enhancing the capacity of communities to effectively participate, and looking for and managing various funds obtained for the project.

(7) Plans or schedules delineating the work to be completed by the department and each partner.

(d) The department may provide technical assistance for the purposes of this section either directly or otherwise, including, but not limited to, by collaborating with other state agencies, appropriate California State University or University of California programs, or other similar programs, providing educational development and field experience for students in watershed sciences.

(e) Grant funds available for the purposes of Section 7048 or this section may be available for use by the recipient for design, engineering, and other technical assistance for the purposes of the program.

**SEC. 217.** Section 13276 of the Water Code is amended to read:

**13276.** (a) The multiagency task force, the Department of Fish and Wildlife and state board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by cannabis cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on water quality and on fish and wildlife throughout the state.

(b) The state board or the appropriate regional board shall address discharges of waste resulting from cannabis cultivation under Division 10 (commencing with Section 26000) of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, the state board or the regional board shall include conditions to address items that include, but are not limited to, all of the following:

- (1) Site development and maintenance, erosion control, and drainage features.
- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

**SEC. 218.** Section 31142.50 of the Water Code is amended to read:

**31142.50.** (a) In addition to the other powers provided by law, the Sierra Lakes County Water District shall have, but is not limited to, the authority to prevent nuisance, pollution, waste, and contamination of its drinking water source.

(b) (1) To regulate, prohibit, or control the discharge of pollutants, waste, or other materials in groundwater or surface waters, the district may adopt by ordinance requirements relating to the installation and use of small aboveground or small underground tanks, including, but not limited to, the following:

(A) An existing small underground tank for the storage of petroleum located within the tributary watershed of Lake Serena and Lake Dulzura shall be annually tested in accordance with the Non-Visual Monitoring/Quantitative Release Detection Methods provided in Section 2643 of Title 23 of the California Code of Regulations.

(B) An existing small aboveground tank or new small aboveground tanks for the storage of petroleum located within the tributary watershed of Lake Serena and Lake Dulzura shall include a secondary containment system that meets the requirements of Section 5704.2.9.7 of the California Fire Code.

(2) To regulate, prohibit, or control the discharge of pollutants, waste, or other materials in groundwater or surface waters, the district may adopt an ordinance that prohibits the installation of new small underground tanks or new underground storage tanks, as defined in Section 25281 of the Health and Safety Code, for the storage of petroleum within the tributary watershed of Lake Serena and Lake Dulzura.

(c) An ordinance adopted pursuant to subdivision (b) may provide that:

- (1) A violation of the ordinance is an infraction, constitutes a nuisance, or both.
- (2) The district may seek redress for violations of the ordinance by bringing a civil action against the violator.

(3) If the violation is an infraction, the district may request that the court impose punishment consistent with subdivision (b) of Section 36900 of the Government Code. For purposes of calculating the punishment, each day of the violation constitutes a separate offense.

(4) If the violation constitutes a nuisance, the district may pursue summary abatement of the nuisance or initiate civil proceedings to abate the nuisance. A person found by the court to have committed the nuisance shall be liable for the costs incurred by the district to abate the nuisance, including, but not limited to, the costs of investigation, costs of time and materials expended to eliminate or mitigate the nuisance, court costs, attorney's fees, and costs of monitoring compliance. The court may also assess any civil penalties established in the ordinance against persons found by the court to have committed a nuisance.

(d) For purposes of this section, the following definitions apply:

(1) "Petroleum" includes crude oil, including heating oil, or any fraction thereof, that is liquid at standard conditions of temperature and pressure. Standard conditions of temperature and pressure for crude oil is 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

(2) "Small aboveground tank" means a tank that is substantially or totally above the surface of the ground with a capacity of 550 gallons or less and not subject to Chapter 6.67 (commencing with Section 25270) of Division 20 of the Health and Safety Code.

(3) "Small underground tank" means any one or combination of tanks, including pipes connected thereto, that is used for storage of hazardous substances and that is substantially or totally beneath the surface of the ground with a capacity of 1,100 gallons or less.

(4) "Tank" means a stationary device designed to contain an accumulation of hazardous substances that is constructed primarily of nonearthen materials, including, but not limited to, wood, concrete, steel, or plastic that provides structural support.

**SEC. 219.** Section 71611.5 of the Water Code is amended to read:

**71611.5.** (a) (1) Except as provided in paragraph (2), upon the request of an Indian tribe and the satisfaction of the conditions stated in subdivision (b), a district shall provide service of water at substantially the same terms applicable to the customers of the district to an Indian tribe's lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service if the Indian tribe's lands meet all of the following requirements:

(A) The lands were owned by the tribe on January 1, 2016.

(B) The lands are contiguous with at least two districts.

(C) The lands lie within the special study area of at least one district.

(D) At least 70 percent of the Indian tribe's total Indian lands are currently within the boundaries of one or more districts.

(2) (A) Upon the request of an Indian tribe that does not meet the requirements of paragraph (1) and upon the satisfaction of the conditions stated in subdivision (b), a district may, until January 1, 2023, apply to the applicable local agency formation commission to extend water service at substantially the same terms applicable to customers of the district to Indian lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service. The local agency formation commission shall approve the application and may impose conditions on the district with regard to the extension of service in accordance with Section 56886 of the Government Code, as long as those terms and conditions do not impair the provision of water service to Indian lands pursuant to this section and are similar to those imposed on all agency service recipients without discrimination. A district shall provide the water extension agreement to the local agency formation commission.

(B) A local agency formation commission shall not approve an application on or after January 1, 2023. A district that received authorization to extend water service to Indian lands pursuant to subparagraph (A) may continue to do so after January 1, 2023, provided that the district continues to comply with the conditions imposed by the local agency formation commission.

(C) For purposes of this subdivision, "Indian lands" means Indian lands, as defined in Section 2703 of Title 25 of the United States Code, that were part of a reservation or held in trust as of January 1, 2017.

(b) Before a district provides service of water pursuant to this section, the Indian tribe shall satisfy all of the following conditions:

(1) The Indian tribe complies with all federal and tribal laws.

(2) The Indian tribe acquires all federal and tribal approvals necessary for the applicable district to provide water service to the tribal lands on substantially the same terms applicable to customers of the district.

(3) The Indian tribe accepts, by agreement, all terms of, and payments to (including service payments), the district and any public agency providing water to said district, as if the Indian tribe's lands were fully annexed into the district and into the service area of any other public agency, which terms and payments are also a condition of continued service by a district and by any public agency providing water to said district.

(c) If a district provides service of water to an Indian tribe's lands pursuant to this section, the service areas of the district and of any public agencies providing water to the district are deemed for all purposes to include the Indian tribe's lands for the longest of the following periods of time:

(1) The time service of water is provided by the district to the Indian tribe.

(2) The time moneys are owed by the Indian tribe to the district for the service of water.

(3) The term of any agreement between the district and the Indian tribe.

**SEC. 220.** Section 727 of the Welfare and Institutions Code is amended to read:

**727.** (a) (1) If a minor or nonminor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court.

(2) In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of an offense described in subdivision (b) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of an offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

(3) In all other cases, the court shall order the care, custody, and control of the minor or nonminor to be under the supervision of the probation officer.

(4) It is the responsibility of the probation agency pursuant to Section 672(a)(2)(B) of Title 42 of the United States Code to determine the appropriate placement for the ward once the court issues a placement order. In determining the appropriate placement for the ward, the probation officer shall consider the recommendations of the child and family. The probation agency may place the minor or nonminor in any of the following:

(A) The approved home of a relative or the approved home of a nonrelative, extended family member, as defined in Section 362.7. If a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caregiver were the custodial parent of the minor.

(B) A foster home, the approved home of a resource family as defined in Section 16519.5, or a home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(C) A suitable licensed community care facility, as identified by the probation officer, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(D) A foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, in a suitable certified family home or with a resource family.

(E) A minor or nonminor dependent may be placed in a group home or short-term residential therapeutic program as defined in subdivision (ad) of Section 11400 and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code. The placing agency shall also comply with requirements set forth in paragraph (9) of subdivision (e) of Section 361.2, which includes, but is not limited to, authorization, limitation on length of stay, extensions, and additional requirements related to minors. For youth 13 years of age and older, the chief probation officer of the county probation department, or his or her designee, shall approve the placement if it is longer than 12 months, and no less frequently than every 12 months thereafter.

(F) (i) A minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in

those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level.

(ii) A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home in applying and using the reasonable and prudent parent standard.

(G) For nonminors, an approved supervised independent living setting as defined in Section 11400, including a residential housing unit certified by a licensed transitional housing placement provider.

(5) The minor or nonminor shall be released from juvenile detention upon an order being entered under paragraph (3), unless the court determines that a delay in the release from detention is reasonable pursuant to Section 737.

(b) (1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings an agency that the court determines has failed to meet a legal obligation to provide services to a minor, for whom a petition has been filed under Section 601 or 602, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In a proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. This section does not prohibit agencies that have received notice of the hearing on joinder from meeting before the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to an individualized education program developed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) For the purposes of this subdivision, "agency" means a governmental agency or a private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor, or nonminor dependent.

(c) If a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602, and the court finds that notice has been given in accordance with Section 661, and if the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(d) The juvenile court may direct reasonable orders to the parents and guardians of the minor who is the subject of proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a), (b), and (c), including orders to appear before a county financial evaluation officer, to ensure the minor's regular school attendance, and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

If counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the minor.

(e) The court may, after receipt of relevant testimony and other evidence from the parties, affirm or reject the placement determination. If the court rejects the placement determination, the court may instruct the probation department to determine an alternative placement for the ward, or the court may modify the placement order to an alternative placement recommended by a party to the case after the court has received the probation department's assessment of that recommendation and other relevant evidence from the parties.

**SEC. 221.** Section 4418.25 of the Welfare and Institutions Code is amended to read:

**4418.25.** (a) (1) The department shall establish policies and procedures for the development of an annual community placement plan by regional centers. The community placement plan shall be based upon an individual program plan process as referred to in subdivision (a) of Section 4418.3 and shall be linked to the development of the annual State Budget. The department's policies shall address statewide priorities, plan requirements, and the statutory roles of regional centers, developmental centers, and regional resource development projects in the process of assessing consumers for community living and in the development of community resources.

(2) (A) In addition to the existing priorities to support the closure of the developmental centers and the development of services and supports to transition individuals from restrictive settings, including institutions for mental disease, the department also shall establish guidelines by which community placement plan funds appropriated through the budget process may be utilized for community resource development to address the needs for services and supports of consumers living in the community in accordance with Section 4679.

(B) The department may allocate funds to regional centers for purposes of community resource development as provided in this paragraph when the department determines that sufficient funding has been appropriated and reserved for a fiscal year for development of the resources that are necessary to address the needs of persons moving from a developmental center pursuant to Section 4474.11, and no sooner than 30 days after the department has provided notice of this determination to the Joint Legislative Budget Committee and the appropriate policy and fiscal committees of the Legislature.

(b) (1) To reduce reliance on developmental centers and mental health facilities, including institutions for mental disease as described in Part 5 (commencing with Section 5900) of Division 5, for which federal funding is not available, and out-of-state placements, the department shall establish a statewide specialized resource service that does all of the following:

(A) Tracks the availability of specialty residential beds and services.

(B) Tracks the availability of specialty clinical services.

(C) Coordinates the need for specialty services and supports in conjunction with regional centers.

(D) Identifies, subject to federal reimbursement, developmental center services and supports that can be made available to consumers residing in the community, when no other community resource has been identified.

(2) By September 1, 2012, regional centers shall provide the department with information about all specialty resources developed with the use of community placement plan funds and shall make these resources available to other regional centers.

(3) When allocating funding for community placement plans, priority shall be given to the development of needed statewide specialty services and supports, including regional community crisis homes.

(4) If approved by the director, funding may be allocated to facilities that meet the criteria of Sections 1267.75 and 1531.15 of the Health and Safety Code.

(5) The department shall not provide community placement plan funds to develop programs that are ineligible for federal funding participation unless approved by the director.

(c) (1) The community placement plan shall provide for dedicated funding for comprehensive assessments of developmental center residents, for identified costs of moving individuals from developmental centers to the community, and for deflection of individuals from developmental center admission. The plans shall, where appropriate, include budget requests for regional center operations, assessments, resource development, and ongoing placement costs. These budget requests are intended to provide supplemental funding to regional centers. The plan is not intended to limit the department's or regional centers' responsibility to otherwise conduct assessments and individualized program planning, and to provide needed services and supports in the least restrictive, most integrated setting in accord with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(2) (A) Regional centers shall complete a comprehensive assessment of a consumer residing in a developmental center on July 1, 2012, who meets both of the following criteria:

(i) The consumer is not committed pursuant to Section 1370.1 of the Penal Code.

(ii) The consumer has not had such an assessment in the prior two years.

(B) The assessment shall include input from the regional center, the consumer, and, if appropriate, the consumer's family, legal guardian, conservator, or authorized representative, and shall identify the types of community-based services and supports available to the consumer that would enable the consumer to move to a community setting. Necessary services

and supports not currently available in the community setting shall be considered for development pursuant to community placement planning and funding.

(C) Regional centers shall specify in the annual community placement plan how they will complete the required assessment and the timeframe for completing the assessment for each consumer. Initial assessments pursuant to this paragraph for individuals residing in a developmental center on July 1, 2012, shall be completed by December 31, 2015, unless a regional center demonstrates to the department that an extension of time is necessary and the department grants such an extension.

(D) The assessment completed in the prior two years, or the assessment completed pursuant to the requirements of this section, including any updates pursuant to subparagraph (E), shall be provided to both of the following:

(i) The individual program planning team and clients' rights advocate for the regional center in order to assist the planning team in determining the least restrictive environment for the consumer.

(ii) The superior court with jurisdiction over the consumer's placement at the developmental center, including the consumer's attorney of record and other parties known to the regional center. For judicial proceedings pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6, the comprehensive assessment shall be included in the regional center's written report required by Section 6504.5. For all other proceedings, the regional center shall provide the comprehensive assessment to the court and parties to the case at least 14 days in advance of regularly scheduled judicial review. This clause shall not apply to consumers committed pursuant to Section 1370.1 of the Penal Code.

(E) The assessments described in subparagraph (D) shall be updated annually as part of the individual program planning process for as long as the consumer resides in the developmental center. To the extent appropriate, the regional center shall also provide relevant information from the statewide specialized resource service. The regional center shall notify the clients' rights advocate for the regional center of the time, date, and location of each individual program plan meeting that includes discussion of the results of the comprehensive assessment and updates to that assessment. The regional center shall provide this notice as soon as practicable following the completion of the comprehensive assessment or update and not less than 30 calendar days before the meeting. The clients' rights advocate may participate in the meeting unless the consumer objects on his or her own behalf.

(d) The department shall review, negotiate, and approve regional center community placement plans for feasibility and reasonableness, including recognition of each regional centers' current developmental center population and their corresponding placement level, as well as each regional centers' need to develop new and innovative service models. The department shall hold regional centers accountable for the development and implementation of their approved plans. The regional centers shall report, as required by the department, on the outcomes of their plans. The department shall make aggregate performance data for each regional center available, upon request, as well as data on admissions to, and placements from, each developmental center.

(e) Funds allocated by the department to a regional center for a community placement plan developed under this section shall be controlled through the regional center contract to ensure that the funds are expended for the purposes allocated. Funds allocated for community placement plans that are not used for that purpose may be transferred to Item 4300-003-0001 for expenditure in the state developmental centers if their population exceeds the budgeted level. Any unspent funds shall revert to the General Fund.

(f) Commencing May 1, 2013, and then on April 1, 2014, and on April 1 annually thereafter, the department shall provide to the fiscal and appropriate policy committees of the Legislature, and to the contractor for regional center clients' rights advocacy services under Section 4433, information on efforts to serve consumers with challenging service needs, including, but not limited to, all of the following:

(1) For each regional center, the number of consumers admitted to each developmental center, including the legal basis for the admissions.

(2) For each regional center, the number of consumers described in paragraph (2) of subdivision (a) of Section 7505 who were admitted to Fairview Developmental Center by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6, and the number and lengths of stay of consumers, including those who have transitioned back to a community living arrangement.

(3) Outcome data related to the assessment process set forth in Section 4418.7, including the number of consumers who received assessments pursuant to Section 4418.7 and the outcomes of the assessments. Each regional center, commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter, shall provide the department with information on alternative community services and supports provided to those consumers who were able to remain in the

community following the assessments, and the unmet service needs that resulted in any consumers being admitted to Fairview Developmental Center.

(4) Progress in the development of needed statewide specialty services and supports, including regional community crisis options, as provided in paragraph (3) of subdivision (b). Each regional center shall provide the department with a report containing the information described in this paragraph commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter.

(5) Progress in reducing reliance on mental health facilities ineligible for federal Medicaid funding, and out-of-state placements, including information on the utilization of those facilities, which shall include, by regional center, all of the following:

(A) The total number and age range of consumers placed in those facilities.

(B) The number of admissions.

(C) The reasons for admissions by category, including, but not limited to, incompetent-to-stand-trial (IST) commitment, Section 6500 commitment, crisis stabilization, and lack of appropriate community placement.

(D) The lengths of stay of consumers.

(E) The type of facility.

(6) Information on the utilization of facilities serving consumers with challenging service needs that utilize delayed egress devices and secured perimeters, pursuant to Section 1267.75 or 1531.15 of the Health and Safety Code, including the number of admissions, reasons for admissions, and lengths of stay of consumers, including those who have transitioned to less restrictive living arrangements.

(7) If applicable, any recommendations regarding additional rate exceptions or modifications beyond those allowed for under existing law that the department identifies as necessary to meet the needs of consumers with challenging service needs.

(g) Each regional center, commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter, shall provide information to the department regarding the facilities described in paragraph (6) of subdivision (f), including, but not limited to, the number of admissions, reasons for admissions, and lengths of stay of consumers, including those who have transitioned to less restrictive living arrangements.

(h) Each institution for mental disease that has admitted a regional center consumer in the preceding year shall report on February 1, 2016, and on February 1 annually thereafter, to the contractor for regional center clients' rights advocacy services under Section 4433, all of the following:

(1) The total number and age of consumers placed in that facility.

(2) The number of admissions.

(3) The reasons for admissions by category.

(4) The lengths of stay of consumers.

(5) The funding source.

**SEC. 222.** Section 4648 of the Welfare and Institutions Code is amended to read:

**4648.** In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities, including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities to achieve the greatest self-sufficiency possible and to exercise personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports that would allow minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually

tailored to the consumer and, if appropriate, his or her family.

(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from an individual or agency that the regional center and consumer or, if appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department, regional centers, vendors, and the individual or agency requesting vendorization.

(C) Regulations shall include, but not be limited to: the vendor application process, and the basis for accepting or denying an application; the qualification and requirements for each category of services that may be provided to a regional center consumer through a vendor; requirements for emergency vendorization; procedures for termination of vendorization; and the procedure for an individual or an agency to appeal a vendorization decision made by the department or regional center.

(D) A regional center may vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity. A facility already licensed on January 1, 1999, shall continue to be vendorized at their full licensed capacity until the facility agrees to vendorization at a reduced capacity.

(E) Effective July 1, 2009, notwithstanding any other law or regulation, a regional center shall not newly vendor a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, unless the facility qualifies for receipt of federal funds under the Medicaid Program.

(4) Notwithstanding subparagraph (B) of paragraph (3), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, a provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

(5) In order to ensure the maximum flexibility and availability of appropriate services and supports for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of services and supports identified as necessary to the implementation of a consumer's individual program plan. The system of payment shall include a provision for a rate to ensure that the provider can meet the special needs of consumers and provide quality services and supports in the least restrictive setting as required by law.

(6) The regional center and the consumer, or if appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports that can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) If appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available, shall be reviewed, and the least costly available provider of comparable service, including the cost of transportation, who is able to accomplish all or part of the consumer's individual program plan, consistent with the particular needs of the consumer and family as identified in the individual program plan, shall be selected. In determining the least costly provider, the availability of federal financial participation shall be considered. The consumer shall not be required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

(E) The consumer's choice of providers, or, if appropriate, the consumer's parent's, legal guardian's, authorized representative's, or conservator's choice of providers.

(7) A service or support provided by an agency or individual shall not be continued unless the consumer or, if appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, if appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

(8) Regional center funds shall not be used to supplant the budget of an agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

(9) (A) A regional center may, directly or through an agency acting on behalf of the center, provide placement in, purchase of, or follow-along services to persons with developmental disabilities in, appropriate community living arrangements, including, but not limited to, support service for consumers in homes they own or lease, foster family placements, health care facilities, and licensed community care facilities. In considering appropriate placement alternatives for children with developmental disabilities, approval by the child's parent or guardian shall be obtained before placement is made.

(B) Effective July 1, 2012, notwithstanding any other law or regulation, a regional center shall not purchase residential services from a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds. This prohibition on regional center purchase of residential services does not apply to either of the following:

(i) A residential facility with a licensed capacity of 16 or more beds that has been approved to participate in the department's Home and Community Based Services Waiver or another existing waiver program or certified to participate in the Medi-Cal program.

(ii) A residential facility licensed as a mental health rehabilitation center by the State Department of Health Care Services under any of the following circumstances:

(I) The facility is eligible for Medicaid reimbursement and the individual's planning team determines that there are no less restrictive placements appropriate for the individual.

(II) There is an emergency circumstance in which the regional center determines that it cannot locate alternate federally eligible services to meet the consumer's needs. Under an emergency circumstance, an assessment shall be completed by the regional center as soon as possible and within 30 days of admission. An individual program plan meeting shall be convened immediately following the assessment to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility into the community. If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of placement in the facility. Commencing October 1, 2012, this determination shall be made after also considering resource options identified by the statewide specialized resource service. If it is determined that emergency services continue to be necessary, the regional center shall submit an updated transition plan that can cover a period of up to 90 days. In no event shall placements under these emergency circumstances exceed 180 days.

(III) The clients' rights advocate shall be notified of each admission and individual program planning meeting pursuant to this clause and may participate in all individual program planning meetings unless the consumer objects on his or her own behalf. For purposes of this subclause, notification to the clients' rights advocate shall include a copy of the most recent comprehensive assessment or updated assessment and the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days before the meeting.

(IV) If a consumer is placed in a mental health rehabilitation center by another entity, the mental health rehabilitation center shall inform the regional center of the placement within five days of the date the consumer is admitted. If an individual's records indicate that he or she is a regional center consumer, the mental health rehabilitation center shall make every effort to contact the local regional center or the department to determine which regional center to provide notice. As soon as possible within 30 days of admission to a mental health rehabilitation center due to an emergency pursuant to subclause (II), or within 30 days of notification of admission to a mental health rehabilitation center by an entity other than a regional center, an assessment shall be completed by the regional center.

(C) (i) Effective July 1, 2012, notwithstanding any other law or regulation, a regional center shall not purchase new residential services from, or place a consumer in, institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding is not available. Effective July 1, 2013, this prohibition applies regardless of the availability of federal funding.

(ii) The prohibition described in clause (i) shall not apply to emergencies, as determined by the regional center, if a regional center cannot locate alternate services to meet the consumer's needs. As soon as possible within 30 days of admission due to an emergency, an assessment shall be completed by the regional center. An individual program plan

meeting shall be convened immediately following the assessment, to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility to the community. If transition is not expected within 90 days of admission, an emergency program plan meeting shall be held to discuss the status of the transition and to determine if the consumer is still in need of placement in the facility. If emergency services continue to be necessary, the regional center shall submit an updated transition plan to the department for an extension of up to 90 days. Placement shall not exceed 180 days.

(iii) To the extent feasible, before an admission, the regional center shall consider resource options identified by the statewide specialized resource service established pursuant to subdivision (b) of Section 4418.25.

(iv) The clients' rights advocate shall be notified of each admission and individual program planning meeting pursuant to this subparagraph and may participate in all individual program planning meetings unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include a copy of the most recent comprehensive assessment or updated assessment and the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days before the meeting.

(v) If a consumer is placed in an institution for mental disease by another entity, the institution for mental disease shall inform the regional center of the placement within five days of the date the consumer is admitted. If an individual's records indicate that he or she is a regional center consumer, the institution for mental disease shall make every effort to contact the local regional center or department to determine which regional center to provide notice. As soon as possible within 30 days of admission to an institution for mental disease due to an emergency pursuant to clause (ii), or within 30 days of notification of admission to an institution for mental disease by an entity other than a regional center, an assessment shall be completed by the regional center.

(vi) Regional centers shall complete a comprehensive assessment of a consumer residing in an institution for mental disease as of July 1, 2012, for which federal Medicaid funding is not available, and for a consumer residing in an institution for mental disease as of July 1, 2013, without regard to federal funding. The comprehensive assessment shall be completed before the consumer's next scheduled individual program plan meeting and shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to the community. Effective October 1, 2012, the regional center shall also consider resource options identified by the statewide specialized resource service. For each individual program plan meeting convened pursuant to this subparagraph, the clients' rights advocate for the regional center shall be notified of the meeting and may participate in the meeting unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days before the meeting.

(D) (i) The transition process from a mental health rehabilitation center or institution for mental disease shall be based upon the individual's needs, developed through the individual program plan process, and shall ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services shall include, if appropriate for the individual, wraparound services through intensive individualized support services. The transition shall be to a community living arrangement that is in the least restrictive environment appropriate to the needs of the individual and most protective of the individual's rights to dignity, freedom, and choice as described in subdivision (a).

(ii) Regional centers, through the individual program plan process, shall coordinate for the benefit of the regional center consumers residing in an institution for mental disease, pretransition planning, transition, and access to followup services to help ensure a smooth transition to the community. Individual support services shall include, but shall not be limited to, both of the following:

(I) Defined regional center contacts and visits with consumers and service providers during the 12 months following the consumer's movement date.

(II) Identification of issues that need resolution and an individualized support plan to address these issues.

(E) A person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with intellectual disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audiotapes, if necessary to meet the communication needs of consumers.

(F) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with developmental disabilities in the living arrangement of their own choice. Crisis services shall first be provided without disrupting a person's living arrangement. If crisis intervention services are unsuccessful, emergency housing shall be available in the person's home community. If dislocation cannot be avoided, every effort shall be made to return the person to his or her living arrangement of choice, with all necessary supports, as soon as possible.

(11) Among other service and support options, planning teams shall consider the use of paid roommates or neighbors, personal assistance, technical and financial assistance, and all other service and support options that would result in greater self-sufficiency for the consumer and cost-effectiveness to the state.

(12) If facilitation as specified in an individual program plan requires the services of an individual, the facilitator shall be of the consumer's choosing.

(13) The community support may be provided to assist individuals with developmental disabilities to fully participate in community and civic life, including, but not limited to, programs, services, work opportunities, business, and activities available to persons without disabilities. This facilitation shall include, but not be limited to, any of the following:

(A) Outreach and education to programs and services within the community.

(B) Direct support to individuals that would enable them to more fully participate in their community.

(C) Developing unpaid natural supports when possible.

(14) If feasible and recommended by the individual program planning team, for purposes of facilitating better and cost-effective services for consumers or family members, technology, including telecommunication technology, may be used in conjunction with other services and supports. Technology in lieu of a consumer's in-person appearances at judicial proceedings or administrative due process hearings may be used only if the consumer or, if appropriate, the consumer's parent, legal guardian, conservator, or authorized representative, gives informed consent. Technology may be used in lieu of, or in conjunction with, in-person training for providers, as appropriate.

(15) Other services and supports may be provided as set forth in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

(16) Notwithstanding any other law or regulation, effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice. For regional center consumers receiving these services as part of their individual program plan (IPP) or individualized family service plan (IFSP) on July 1, 2009, this prohibition shall apply on August 1, 2009.

(b) (1) Advocacy for, and protection of, the civil, legal, and service rights of persons with developmental disabilities as established in this division.

(2) If the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of a consumer prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request advocacy assistance from the state council.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, if appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for an agency or individual provider to assist that agency or individual provider in upgrading the quality of

services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority to investigate the possible noncompliance.

(e) If necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) If there are identified gaps in the system of services and supports consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

(h) At least annually, regional centers shall provide the consumer, his or her parents, legal guardian, conservator, or authorized representative a statement of services and supports the regional center purchased for the purpose of ensuring that they are delivered. The statement shall include the type, unit, month, and cost of services and supports purchased.

**SEC. 223.** Section 4677 of the Welfare and Institutions Code is amended to read:

**4677.** (a) (1) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created in the State Treasury and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, and to expand or convert existing programs. Within the context of, and consistent with, approved priorities for program development in the state plan, program development funds shall promote integrated residential, work, instructional, social, civic, volunteer, and recreational services and supports that increase opportunities for self-determination and maximize independence of persons with developmental disabilities. Notwithstanding any other law or regulation, commencing July 1, 2009, parental fees remitted to the State Treasury shall be deposited in accordance with Section 4784.

(2) An allocation from the Program Development Fund shall not be granted for more than 24 months.

(b) (1) The State Council on Developmental Disabilities shall, at least once every five years, request from all regional centers information on the types and amounts of services and supports needed, but currently unavailable.

(2) The state council shall work collaboratively with the department and the Association of Regional Center Agencies to develop standardized forms and protocols that shall be used by all regional centers and the state council in collecting and reporting this information. In addition to identifying services and supports that are needed, but currently unavailable, the forms and protocols shall also solicit input and suggestions on alternative and innovative service delivery models that would address consumer needs.

(3) In addition to the information provided pursuant to paragraph (2), the state council may utilize information from other sources, including, but not limited to, public hearings, quality assurance assessments conducted pursuant to Section 4571, regional center reports on alternative service delivery submitted to the department pursuant to Section 4669.2, and the annual report on self-directed services produced pursuant to Section 4685.7.

(4) The department shall provide additional information, as requested by the state council.

(5) Based on the information provided by the regional centers and other agencies, the state council shall develop an assessment of the need for new, expanded, or converted community services and supports, and make that assessment available to the public. The assessment shall include a discussion of the type and amount of services and supports necessary but currently unavailable including the impact on consumers with common characteristics, including, but not limited to, disability, specified geographic regions, age, and ethnicity, who face distinct challenges. The assessment shall highlight alternative and innovative service delivery models identified through their assessment process.

(6) This needs assessment shall be conducted at least once every five years and updated annually. The assessment shall be included in the state plan and shall be provided to the department and to the appropriate committees of the Legislature. The assessment and annual updates shall be made available to the public. The state council, in consultation with the department,

shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is available, upon appropriation by the Legislature, to the department, and subject to allocations that may be made in the annual Budget Act. These funds shall not revert to the General Fund.

(d) Notwithstanding any other requirement of this section, and to the extent appropriated for this purpose in the annual Budget Act, the department may allocate funds from the Program Development Fund for the purpose of funding projects approved pursuant to Section 4679.

(e) The deposit of federal moneys into the Program Development Fund shall not be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

**SEC. 224.** Section 4698 of the Welfare and Institutions Code is amended to read:

**4698.** (a) (1) "Community crisis home" means a facility certified by the State Department of Developmental Services pursuant to this article, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code, as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center services and in need of crisis intervention services who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, a State Department of Developmental Services-operated facility, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5. A community crisis home shall have a maximum capacity of eight consumers. No more than one-third of community crisis homes may exceed a capacity of six consumers.

(2) "Consumer" or "client" means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512 and applicable regulations and for whom the regional center has accepted responsibility.

(b) (1) The State Department of Developmental Services, using community placement plan funds, shall establish a community-based residential option consisting of community crisis homes for adults with developmental disabilities receiving regional center services who require crisis intervention services and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, a State Department of Developmental Services-operated facility, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5.

(2) The State Department of Developmental Services may issue a certificate of program approval to a community crisis home qualified pursuant to this article.

(3) A community crisis home using delayed egress devices may utilize secured perimeters in compliance with Section 1531.15 of the Health and Safety Code and applicable regulations. The total number of community crisis beds using delayed egress devices in combination with secured perimeters shall not exceed 20 percent of the statewide limit established in subdivision (k) of Section 1531.15 of the Health and Safety Code. A community crisis home that uses delayed egress devices in combination with secured perimeters shall not have more than six beds.

(c) A community crisis home shall not be licensed by the State Department of Social Services until the certificate of program approval, issued pursuant to this article by the State Department of Developmental Services, has been received.

(1) A community crisis home shall be certified only if approved through a regional center community placement plan pursuant to Section 4418.25. Each home shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations. The home shall be eligible for federal Medicaid home- and community-based services funding, unless the State Department of Developmental Services approves the use of delayed egress devices with secured perimeters to be utilized at the community crisis home pursuant to Section 1531.15 of the Health and Safety Code.

(2) A consumer shall not be placed in a community crisis home unless the program is certified by the State Department of Developmental Services, pursuant to this article, and the facility is licensed by the State Department of Social Services, pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code.

(3) A certificate of program approval, issued pursuant to this article by the State Department of Developmental Services, shall be a condition of licensure for the community crisis home by the State Department of Social Services, pursuant to Article 9.7

(commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code.

(4) Community crisis homes shall exceed the minimum requirements for a Residential Facility Service Level 4I pursuant to Sections 56004 and 56013 of Title 17 of the California Code of Regulations, and shall meet all applicable statutory and regulatory requirements for facility licensing, the use of behavior modification interventions, and seclusion and restraint, including Division 1.5 (commencing with Section 1180) of the Health and Safety Code, and that are applicable to facilities licensed as adult residential facilities.

(d) Community crisis homes shall have a facility program plan approved by the State Department of Developmental Services. The facility program plan approved by the State Department of Developmental Services shall be submitted to the State Department of Social Services for inclusion in the facility plan of operation, pursuant to Section 1567.84 of the Health and Safety Code.

(e) The local regional center and each consumer's regional center shall have joint responsibility for monitoring and evaluating the provision of services in the community crisis home. Monitoring shall include at least monthly face-to-face, onsite case management visits with each consumer by his or her regional center and at least quarterly quality assurance visits by the vendoring regional center. The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with their monitoring responsibilities.

(f) A consumer's regional center shall also notify the clients' rights advocate of each community crisis home admission. Unless the consumer objects on his or her own behalf, the clients' rights advocate may participate in developing the plan to transition the consumer to his or her prior residence or an alternative community-based residential setting with needed services and supports.

(g) The State Department of Developmental Services shall establish by regulation a rate methodology for community crisis homes that includes a fixed facility component for residential services and an individualized services and supports component based on each consumer's needs as determined through the individual program plan process, which may include assistance with returning to the consumer's prior living arrangement or transitioning to an alternative community residential setting, including, when appropriate for the individual, wraparound services through intensive individualized support services.

(h) If the State Department of Developmental Services determines that urgent action is necessary to protect a consumer residing in a community crisis home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the State Department of Developmental Services may request that the regional center or centers remove the consumer from the community crisis home or direct the regional center or centers to obtain alternative or additional services for the consumer within 24 hours of that determination. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section. The regional center shall notify the clients' rights advocate of any removal from the community crisis home.

(i) The Director of Developmental Services shall rescind a community crisis home's certificate of program approval when, in his or her sole discretion, a community crisis home does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit his or her decision rescinding a community crisis home's certificate of program approval to the State Department of Social Services and the regional center with his or her recommendation as to whether to revoke the community crisis home license, and the State Department of Social Services shall revoke the license of the community crisis home pursuant to Section 1550 of the Health and Safety Code.

(j) The State Department of Developmental Services and regional centers shall provide to the State Department of Social Services all available documentation and evidentiary support necessary for the licensing and administration of community crisis homes and enforcement of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and the applicable regulations.

**SEC. 225.** Section 5270.15 of the Welfare and Institutions Code is amended to read:

**5270.15.** (a) Upon the completion of a 14-day period of intensive treatment pursuant to Section 5250, the person may be certified for an additional period of not more than 30 days of intensive treatment under both of the following conditions:

(1) The professional staff of the agency or facility treating the person has found that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism.

(2) The person remains unwilling or unable to accept treatment voluntarily.

(b) A person certified for an additional 30 days pursuant to this article shall be provided a certification review hearing in accordance with Section 5256 unless a judicial review is requested pursuant to Article 5 (commencing with Section 5275).

(1) Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient at least 36 hours before the certification review hearing, of the time and place of the certification hearing, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.

(2) The professional staff of the agency or facility providing intensive treatment shall analyze the person's condition at intervals not to exceed 10 days, to determine whether the person continues to meet the criteria established for certification under this section, and shall daily monitor the person's treatment plan and progress. Termination of this certification before the 30th day shall be made pursuant to Section 5270.35.

**SEC. 226.** Section 5328 of the Welfare and Institutions Code is amended to read:

**5328.** (a) All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services are confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients before 1969 are also confidential. Information and records shall be disclosed only in any of the following cases:

(1) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(2) If the patient, with the approval of the physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, or licensed professional clinical counselor, who is in charge of the patient, designates persons to whom information or records may be released, except that this article does not compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family. This paragraph does not authorize a licensed marriage and family therapist or licensed professional clinical counselor to provide services or to be in charge of a patient's care beyond his or her lawful scope of practice.

(3) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(4) If the recipient of services is a minor, ward, dependent, or conservatee, and his or her parent, guardian, guardian ad litem, conservator, or authorized representative designates, in writing, persons to whom records or information may be disclosed, except that this article does not compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.

(5) For research, provided that the Director of Health Care Services, the Director of State Hospitals, the Director of Social Services, or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

Date

As a condition of doing research concerning persons who have received services from \_\_\_\_ (fill in the facility, agency, or person), I, \_\_\_\_, agree to obtain the prior informed consent of those persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of that research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(6) To the courts, as necessary to the administration of justice.

(7) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(8) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(9) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(10) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign the release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient, except that this article does not compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.

(11) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information that has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that the information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this paragraph shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(12) (A) Between persons who are trained and qualified to serve on multidisciplinary personnel teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the provision of child welfare services or the investigation, prevention, identification, management, or treatment of child abuse or neglect pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9. Information obtained pursuant to this paragraph shall not be used in any criminal or delinquency proceeding. This paragraph does not prohibit evidence identical to that contained within the records from being admissible in a criminal or delinquency proceeding, if the evidence is derived solely from means other than this paragraph, as permitted by law.

(B) As used in this paragraph, "child welfare services" means those services that are directed at preventing child abuse or neglect.

(13) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(14) To a committee established in compliance with Section 14725.

(15) In providing information as described in Section 7325.5. This paragraph does not permit the release of any information other than that described in Section 7325.5.

(16) To the county behavioral health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(17) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 125135 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this paragraph, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this paragraph as determined by the genetic disease unit established in the State Department of Health Care Services under Section 125000 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this paragraph after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(18) If the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies and county child welfare agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this paragraph, "psychotherapist" has the same meaning as provided in Section 1010 of the Evidence Code.

(19) (A) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(B) For purposes of this paragraph, "designated officer" and "emergency response employee" have the same meaning as these terms are used in the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(C) The designated officer shall be subject to the confidentiality requirements specified in Section 120980 of the Health and Safety Code, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980 of the Health and Safety Code, and may be personally liable for unauthorized release of any identifying information about the HIV test results.

(20) (A) To a law enforcement officer who personally lodges with a facility, as defined in subparagraph (B), a warrant of arrest or an abstract of a warrant showing that the person sought is wanted for a serious felony, as defined in Section 1192.7 of the Penal Code, or a violent felony, as defined in Section 667.5 of the Penal Code. The information sought and released shall be limited to whether or not the person named in the arrest warrant is presently confined in the facility. This subparagraph shall be implemented with minimum disruption to health facility operations and patients, in accordance with Section 5212. If the law enforcement officer is informed that the person named in the warrant is confined in the facility, the officer may not enter the facility to arrest the person without obtaining a valid search warrant or the permission of staff of the facility.

(B) For purposes of subparagraph (A), a facility means all of the following:

(i) A state hospital, as defined in Section 4001.

(ii) A general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, solely with regard to information pertaining to a person with mental illness subject to this section.

(iii) An acute psychiatric hospital, as defined in subdivision (b) of Section 1250 of the Health and Safety Code.

(iv) A psychiatric health facility, as described in Section 1250.2 of the Health and Safety Code.

(v) A mental health rehabilitation center, as described in Section 5675.

(vi) A skilled nursing facility with a special treatment program for individuals with mental illness, as described in Sections 51335 and 72445 to 72475, inclusive, of Title 22 of the California Code of Regulations.

(21) Between persons who are trained and qualified to serve on multidisciplinary personnel teams pursuant to Section 15610.55. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused elder or dependent adult pursuant to Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(22) (A) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, all of the following information and records may be released:

(i) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(ii) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(iii) The information described in clauses (i) and (ii) may be released only if both of the following conditions are met:

(I) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection, has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(II) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(ia) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(ib) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this paragraph, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(ic) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(B) For purposes of this paragraph, the State Personnel Board may, before any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this paragraph, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(C) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(D) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(E) For purposes of this paragraph, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

(23) To the person appointed as the developmental services decisionmaker for a minor, dependent, or ward pursuant to Section 319, 361, or 726.

(24) During the provision of emergency services and care, as defined in Section 1317.1 of the Health and Safety Code, the communication of patient information between a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, emergency medical personnel at the scene of an emergency or in an emergency medical transport vehicle, or other professional person or emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(25) To a business associate or for health care operations purposes, in accordance with Part 160 (commencing with Section 160.101) and Part 164 (commencing with Section 164.102) of Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations.

(b) The amendment of paragraph (4) of subdivision (a) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

(c) This section is not limited by Section 5150.05 or 5332.

**SEC. 227.** Section 5835.3 of the Welfare and Institutions Code is amended to read:

**5835.3.** (a) It is the intent of the Legislature to authorize the commission to administer a competitive selection process as provided in this part to create new, and to expand and improve the fidelity of existing, service capacity for early psychosis and mood disorder detection and intervention services in California.

(b) The core objectives of this competitive selection process include, but are not limited to, all of the following:

(1) Expanding the provision of high-quality, evidence-based early psychosis and mood disorder detection and intervention services within California.

(2) Improving access to effective services for transition-aged youth and young adults at high risk for, or experiencing, psychotic symptoms, including the prodromal phase, or psychotic disorders.

(3) More comprehensively and effectively measuring programmatic effectiveness and enrolled client outcomes of programs receiving awards in the competitive selection process.

(4) Improving the client experience in accessing services and in working toward recovery and wellness.

(5) Increasing participation in school attendance, social interactions, physical health, personal bonding relationships, and active rehabilitation, including employment and daily living function development for clients.

(6) Reducing unnecessary hospitalizations and inpatient days by appropriately utilizing community-based services and improving access to timely assistance to early psychosis and mood disorder detection and intervention services.

(7) Expanding the use of innovative technologies for mental health information feedback access that can provide a valued and unique opportunity to optimize care for the target population. This may include technologies for treatment and symptom monitoring.

(8) Providing local communities with increased financial resources to leverage additional public and private funding sources to achieve improved networks of care for the target population, including transition-aged youth and young adults.

(9) Improving whole-person care by increasing access to, and coordination of, mental health and medical care services.

(c) Funds allocated by the commission shall be made available to selected counties, or counties acting jointly, through a competitive selection process, or to other entities for research, evaluation, technical assistance, and other related purposes.

(d) (1) Notwithstanding any other law, a county, or counties acting jointly, that receive an award of funds shall be required to provide a contribution of local funds.

(2) Upon approval of the commission, after consultation with the Department of Finance and the State Department of Health Care Services, other locally acquired funding, such as federal grants or allocations, or other special funds, may also be recognized for the purpose of contributing toward any contribution requirements.

(e) Awards made by the commission shall be used to create, or expand existing capacity for, early psychosis and mood disorder detection and intervention services and supports. The commission shall ensure that awards result in cost-effective and evidence-based services that comprehensively address identified needs of the target population, including transition-aged youth and young adults, in counties and regions selected for funding. The commission shall also take into account at least the following criteria and factors when selecting recipients of awards and determining the amount of awards:

(1) A description of need, including, at a minimum, a comprehensive description of the early psychosis and mood disorder detection and intervention services and supports to be established or expanded, community need, target population to be served, linkage with other public systems of health and mental health care, linkage with schools and community social services, and related assistance as applicable, and a description of the request for funding.

(2) A description of all programmatic components, including outreach and clinical aspects, of the local early psychosis and mood disorder detection and intervention services and supports.

(3) A description of any contractual relationships with contracting providers as applicable, including any memorandum of understanding between project partners.

(4) A description of local funds, including the total amounts, that would be contributed toward the services and supports as required by the commission through the competitive selection process, implementing guidelines, and regulations.

(5) The project timeline.

(6) The ability of the awardee to effectively and efficiently implement or expand an evidence-based program as referenced in this part.

(7) A description of core data collection and the framework for evaluating outcomes, including improved access to services and supports and a cost-benefit analysis of the project.

(8) A description of the sustainability of program services and supports in future years.

(f) The commission shall determine any minimum or maximum awards, and shall take into consideration the level of need, the population to be served, and related criteria as described in subdivision (e) and in any guidance or regulations, and shall reflect the reasonable costs of providing the services and supports.

(g) Funds awarded by the commission may be used to supplement, but not supplant, existing financial and resource commitments of the county or counties acting jointly, that receive the award.

(h) The commission may consult with a technical assistance entity, as described in paragraph (5) of subdivision (a) of Section 4061, initiate an interagency agreement with another public entity, including the University of California system, or contract for necessary technical assistance to implement this part.

(i) The advisory committee may coordinate and recommend an allocation of funding to the commission for clinical research studies. The committee may recommend an amount not to exceed 10 percent of the total amount deposited in the Early Psychosis and Mood Disorder Detection and Intervention Fund for clinical research studies. The committee may recommend, in conjunction with the principal investigators, the data elements to be included in clinical research studies funded pursuant to this subdivision. The results of the clinical research studies shall be made available annually to the members of the public, including stakeholders and Members of the Legislature. The results of clinical research studies shall be deidentified in accordance with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), including Section 164.514 of Title 45 of the Code of Federal Regulations, and shall not contain any personally identifiable information according to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(j) The county and all award recipients shall comply with all applicable state and federal privacy laws that govern medical information, including, but not limited to, HIPAA and its implementing regulations, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), 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), and Section 10850.

**SEC. 228.** Section 6509 of the Welfare and Institutions Code is amended to read:

**6509.** (a) If the court finds that the person has a developmental disability, and is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any of the following:

(1) A licensed community care facility, as defined in Section 1502 of the Health and Safety Code, or any health facility, as defined in Section 1250 of the Health and Safety Code, other than a developmental center or state-operated facility.

(2) The acute crisis center at Fairview Developmental Center, if the person meets the criteria for admission pursuant to paragraph (2) of subdivision (a) of Section 7505.

(3) On or after January 1, 2015, the acute crisis center at Sonoma Developmental Center, if the person meets the criteria for admission pursuant to paragraph (2) of subdivision (a) of Section 7505.

(4) The secure treatment program at Porterville Developmental Center, if the person meets the criteria for admission pursuant to paragraph (3) of subdivision (a) of Section 7505.

(5) Any other appropriate placement permitted by law.

(b) (1) The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to the placement that the court finds to be the most appropriate and least restrictive alternative. If the court finds that release of the person can be made subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

(2) The court, however, may commit a person with a developmental disability who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(c) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code,

the court shall order the State Department of Developmental Services to give notice of that finding to the designated placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(d) For persons residing in the secure treatment program at the Porterville Developmental Center, at the person's annual individual program plan meeting the team shall determine if the person should be considered for transition from the secure treatment program to an alternative placement. If the team concludes that an alternative placement is appropriate, the regional center, in coordination with the developmental center, shall conduct a comprehensive assessment and develop a proposed plan to transition the individual from the secure treatment program to the community. The transition plan shall be based upon the individual's needs, developed through the individual program plan process, and shall ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services shall include, when appropriate for the individual, wraparound services through intensive individualized support services. The clients' rights advocate for the regional center shall be notified of the individual program plan meeting and may participate in the meeting unless the consumer objects on his or her own behalf. The individual's transition plan shall be provided to the court as part of the notice required pursuant to subdivision (e).

(e) If the State Department of Developmental Services decides that a change in placement is necessary, it shall notify, in writing, the court of commitment, the district attorney, the attorney of record for the person, and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action, in which case the change shall be deemed approved. At the request of the district attorney, or of the attorney of record for the person, a hearing shall be held.

**SEC. 229.** Section 7502.5 of the Welfare and Institutions Code is amended to read:

**7502.5.** (a) An individual may be admitted to the secure treatment facility at Porterville Developmental Center, as provided in paragraphs (1) and (3) of subdivision (a) of Section 7505, only when all of the following conditions are satisfied:

- (1) The unit to which the individual will be admitted is approved for occupancy and licensed.
- (2) The population of the secure treatment facility is no more than 211 persons.
- (3) The individual is at least 18 years of age.

(b) An individual may be admitted to the transitional treatment program at Porterville Developmental Center if all of the following conditions are satisfied:

- (1) The individual was admitted to Porterville Developmental Center pursuant to paragraphs (1) and (3) of subdivision (a) of Section 7505.
- (2) The individual remains eligible for commitment pursuant to paragraph (3) of subdivision (a) of Section 7505.
- (3) The unit to which the individual will be admitted is approved for occupancy and licensed.
- (4) The population of the transitional treatment program is no more than 60 persons.

(c) As soon as possible, but no later than 30 days following admission to the transitional treatment program, the regional center, in coordination with the developmental center, shall do both of the following:

- (1) Complete a comprehensive assessment that includes the identification of services and supports needed to transition the individual to the community.
- (2) Jointly convene an individual program plan meeting to discuss the comprehensive assessment and develop a plan to transition the individual to the community pursuant to Section 4418.3. The transition plan shall be based upon the individual's needs, developed through the individual program plan process, and shall ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services shall include, when appropriate for the individual, wraparound services through intensive individualized support services. The transition shall be to a community living arrangement that is in the least restrictive environment appropriate to the needs of the individual and most protective of the individual's rights to dignity, freedom, and choice as described in subdivision (a) of Section 4648. The clients' rights advocate for the regional center shall be notified of the individual program plan meeting and may participate in the meeting unless the consumer objects on his or her own behalf.

(d) An individual described in this section shall not be placed in the transitional treatment program for longer than necessary to procure a less restrictive placement. Each year, pursuant to Section 4418.25, an individual in the transitional treatment program at Porterville Developmental Center shall receive an updated comprehensive assessment that shall include all of the following:

- (1) The reason or reasons for placement in the program for longer than one year.

(2) A description of the issue or issues preventing community placement.

(3) The estimated timeframe for placement in the community and the plan for that placement.

(e) On or before March 1, 2016, and March 1 of each year thereafter, the department shall provide the following information to the appropriate policy and fiscal committees of the Legislature:

(1) For each regional center, the number of transitional program residents who are placed in the program for more than one year.

(2) A description of reasons for placement in the program beyond one year.

(3) The steps undertaken to resolve the issue or issues prohibiting community placement.

(4) The additional steps necessary before community placement can be made.

(f) (1) Before issuing a request for proposal for a contract to provide the intensive transitional services for individuals residing in the secure treatment program at Porterville Developmental Center, the department shall consult with the appropriate professionals to develop the parameters for the services to be provided in the contract. The department shall also consult with the protection and advocacy agency described in subdivision (i) of Section 4900 regarding appropriate safeguards for the protection of clients' rights. The department shall ensure that the services are not punitive, are protective of the individual's rights to dignity, freedom, and choice, and are tailored to the needs of the individual and developed through a person-centered planning process and whether the transition and placement are adequate for the protection and safety of others from the dangers posed by the individual's known behaviors and for the welfare of the individual. The department shall further ensure that the regional center clients' rights advocate receives notice of each individual program plan meeting in which the intensive transitional supports are discussed and a copy of any assessment regarding the individual's intensive support needs, and shall ensure that if the individual disagrees with the proposed intensive transitional supports, he or she may request a fair hearing pursuant to Section 4710.5.

(2) By December 31, 2018, the department shall promulgate emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) regarding the intensive transitional services for individuals residing in the secure treatment program at Porterville Developmental Center. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

**SEC. 230.** Section 10951.5 of the Welfare and Institutions Code is amended to read:

**10951.5.** (a) For a beneficiary of a Medi-Cal managed care plan who meets the criteria for an expedited resolution of an appeal as set forth in subdivision (c) of Section 14197.3 or Section 438.410 of Title 42 of the Code of Federal Regulations, the department shall take final administrative action as expeditiously as the individual's health condition requires, but no later than three working days after the department receives, from the Medi-Cal managed care plan, the case file and information for any appeal of an adverse benefit determination that, as indicated by the Medi-Cal managed care plan or determined by the administrative law judge, meets either of the following criteria:

(1) Meets the criteria for expedited resolution as set forth in Section 438.410(a) of Title 42 of the Code of Federal Regulations, but was not resolved within the timeframe for expedited resolution.

(2) Was resolved within the timeframe for expedited resolution, but reached a decision wholly or partially adverse to the beneficiary.

(b) Upon notice from the department that a Medi-Cal managed care plan's beneficiary has requested a state fair hearing, the Medi-Cal managed care plan shall provide to the department a copy of the following information within three business days of the Medi-Cal managed care plan's receipt of the department's notice of a request by a beneficiary for a state fair hearing:

(1) The case file.

(2) Information for any appeal of an adverse benefit determination that, as indicated by the Medi-Cal managed care plan, meets either of the criteria described in paragraph (1) or (2) of subdivision (a).

(c) (1) The department shall take final administrative action on a fair hearing request within the time limits set forth in this section except under either of the following unusual circumstances:

(A) The department cannot reach a decision because the beneficiary requests a delay or fails to take a required action.

(B) There is an administrative or other emergency beyond the department's control.

(2) The department shall document the reasons for any delay in the beneficiary's record.

**SEC. 231.** Section 11323.4 of the Welfare and Institutions Code is amended to read:

**11323.4.** (a) Payments for supportive services, as described in Section 11323.2, shall be advanced to the participant, whenever necessary, and when desired by the participant, so that the participant need not use his or her funds to pay for these services. Payments for child care services shall be made in accordance with Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code.

(b) The county welfare department shall take all reasonable steps necessary to promptly correct any overpayment or underpayment of supportive services payments to a recipient or a service provider, including, but not limited to, all cases involving fraud and abuse, consistent with procedures developed by the department.

(c) Notwithstanding any other provision of this article, any participant in on-the-job training who becomes ineligible for aid under this chapter due to earned income or hours worked, shall remain a participant in the program under this article for the duration of the on-the-job training assignment and shall be eligible for supportive services for the duration of the on-the-job training, provided this duration does not exceed the time limits otherwise applicable to the recipient.

(d) Notwithstanding any other provision of this article, any participant in on-the-job training, grant-based on-the-job training, supported work, or transitional employment who remains eligible for aid pursuant to this chapter, shall be eligible for transportation and ancillary expenses pursuant to paragraphs (3) and (4) of subdivision (a) of Section 11323.2.

(e) (1) Participants shall be encouraged to apply for financial aid, including educational grants, scholarships, and awards.

(2) To the extent permitted by federal law, the county shall coordinate with financial aid offices to establish procedures whereby the educational expenses of participants are met through available financial aid and the supportive services described in Section 11323.2. These procedures shall not result in duplication of payments, and shall require determinations to be made on an individual basis to ensure that using financial aid will not prevent the person's participation in his or her welfare-to-work plan.

(f) Notwithstanding Section 10850, for purposes of child care supportive services, county welfare departments shall share information necessary for the administration of the child care programs and the CalWORKs program.

**SEC. 232.** Section 11403.05 of the Welfare and Institutions Code is amended to read:

**11403.05.** (a) The department shall include all of the following on a flyer for the Independent Living Program created by the department, the form used for a nonminor dependent to enter into a mutual agreement described in subdivision (u) of Section 11400, the form used for a nonminor dependent to enter into a voluntary reentry agreement described in subdivision (z) of Section 11400, the form used to create a transitional independent living plan described in paragraph (16) of subdivision (g) of Section 16501.1, the department's Internet Web site for the Independent Living Program, and the Office of the State Foster Care Ombudsperson's Internet Web site:

(1) The voter registration page on the Secretary of State's Internet Web site.

(2) The toll-free telephone number maintained by the Secretary of State that contains election-related information.

(3) The email address of the Secretary of State.

(b) A county social worker may provide a voter registration form to a child 16 years of age or older or a nonminor dependent concurrent with the provision of a form identified in subdivision (a).

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific this section by means of an all-county letter or similar instructions, without taking any regulatory action.

**SEC. 233.** Section 11403.2 of the Welfare and Institutions Code is amended to read:

**11403.2.** (a) The following persons are eligible for transitional housing provided pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4:

(1) A foster child at least 16 years of age and not more than 18 years of age, and, on or after January 1, 2012, any nonminor dependent, as defined in subdivision (v) of Section 11400, who is eligible for AFDC-FC benefits as described in Section 11401. A foster child under 18 years of age shall be eligible for placement in the program certified as a "Transitional Housing Placement program for minor foster children" pursuant to paragraph (1) of subdivision (a) of Section 16522.1. A nonminor dependent shall be eligible for placement in the program certified as a "Transitional Housing Placement program for nonminor dependents" pursuant to paragraph (2) of subdivision (a) of Section 16522.1.

(2) (A) A former foster youth at least 18 years of age and, except as provided in subparagraph (B), not more than 24 years of age who has exited from the foster care system on or after his or her 18th birthday and elects to participate in Transitional Housing Program-Plus, as defined in subdivision (s) of Section 11400, if he or she has not received services under this paragraph for more than a total of 24 months, whether or not consecutive. If the person participating in a Transitional Housing Program-Plus is not receiving aid under Section 11403.1, he or she, as a condition of participation, shall enter into, and execute the provisions of, a transitional independent living plan that shall be mutually agreed upon, and annually reviewed, by the former foster youth and the applicable county welfare or probation department or independent living program coordinator. The person participating under this paragraph shall inform the county of any changes to conditions specified in the agreed-upon plan that affect eligibility, including changes in address, living circumstances, and the educational or training program.

(B) A county may, at its option, extend the services provided under subparagraph (A) to former foster youth not more than 25 years of age, and for a total of 36 months, whether or not consecutive, if the former foster youth, in addition to the requirements specified in subparagraph (A), meets either of the following criteria:

(i) The former foster youth is completing secondary education or a program leading to an equivalent credential.

(ii) The former foster youth is enrolled in an institution that provides postsecondary education.

(b) Payment on behalf of an eligible person receiving transitional housing services pursuant to paragraph (1) of subdivision (a) shall be made to the transitional housing placement provider pursuant to the conditions and limitations set forth in Section 11403.3. Notwithstanding Section 11403.3, the department, in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association of California, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, researchers, and transitional housing placement providers, shall convene a workgroup to establish a new rate structure for the Title IV-E funded Transitional Housing Placement program for nonminor dependents placement option for nonminor dependents. The workgroup shall also consider application of this new rate structure to the Transitional Housing Program-Plus, as described in paragraph (2) of subdivision (a) of Section 11403.3. In developing the new rate structure pursuant to this subdivision, the department shall consider the average rates in effect and being paid by counties to current transitional housing placement providers.

(c) The Legislature finds and declares that this subdivision was added in 2015 to clearly codify the requirement of existing law regarding the payment made on behalf of an eligible person receiving transitional housing services. The workgroup described in subdivision (b) recommended, and the department subsequently implemented, an annual adjustment to the payment made on behalf of an eligible person receiving transitional housing services. This annual adjustment has been, and shall continue to be, equal to the California Necessities Index applicable to each fiscal year. The Legislature hereby declares that its intent remains in making this annual adjustment to support the care and supervision, including needed services and supports, for nonminor dependents who are receiving transitional housing services through the Transitional Housing Placement program for nonminor dependents.

**SEC. 234.** Section 14029.91 of the Welfare and Institutions Code is amended to read:

**14029.91.** (a) The department shall require all managed care plans contracting with the department to provide Medi-Cal services to provide language assistance services to limited-English-proficient (LEP) Medi-Cal beneficiaries who are mandatorily enrolled in managed care in the following manner:

(1) (A) Oral interpretation services shall be provided in any language on a 24-hour basis at key points of contact.

(B) Oral interpretation services shall be provided by an interpreter that, at a minimum, meets all of the following qualifications:

(i) Demonstrated proficiency in both English and the target language.

(ii) Knowledge in both English and the target language of health care terminology and concepts relevant to health care delivery systems.

(iii) Adheres to generally accepted interpreter ethics principles, including client confidentiality.

(C) A managed care plan shall not require a beneficiary with limited English proficiency to provide his or her own interpreter or rely on a staff member who does not meet the qualifications described in subparagraph (B) to communicate directly with the limited-English-proficient beneficiary.

(D) A managed care plan shall not rely on an adult or minor child accompanying the limited-English-proficient beneficiary to interpret or facilitate communication except under either of the following circumstances:

(i) In an emergency, as defined by the department, and an interpreter who meets the qualifications described in subparagraph (A) is not immediately available for the beneficiary with limited English proficiency.

(ii) If the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances.

(2) Translation services shall be provided to the language groups identified by the department.

(3) Written notice of the availability of free language assistance services shall be provided in English and in the top 15 languages spoken by limited-English-proficient individuals in California, as determined by the department, and consistent with the requirements identified in Part 92 of Title 45 of the Code of Federal Regulations and Section 1557 of the federal Patient Protection and Affordable Care Act (42 U.S.C. Sec. 18116).

(b) The department shall determine when an LEP population meets the requirement for translation services using one of the following numeric thresholds:

(1) A population group of at least 3,000 or 5 percent of the beneficiary population, whichever is fewer, mandatory managed care Medi-Cal beneficiaries, residing in the service area, who indicate their primary language as other than English.

(2) A population group of mandatory managed care Medi-Cal beneficiaries, residing in the service area, who indicate their primary language as other than English, and that meet a concentration standard of 1,000 beneficiaries in a single ZIP Code or 1,500 beneficiaries in two contiguous ZIP Codes.

(c) The department shall make this determination if any of the following occurs:

(1) A nonmanaged care county becomes a new managed care county.

(2) A new population group becomes a mandatory Medi-Cal managed care beneficiary population.

(3) A period of three years has passed since the last determination.

(d) The department shall instruct managed care plans, by means of incorporating the requirement into plan contracts, all-plan letters, or similar instructions, of the language groups that meet the numeric thresholds.

(e) A managed care plan shall notify beneficiaries, prospective beneficiaries, and members of the public of all of the following information:

(1) The availability of language assistance services, including oral interpretation and translated written materials, free of charge and in a timely manner, when those services are necessary to provide meaningful access to health care programs or activities to individuals with limited English proficiency.

(2) The availability of appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when those aids and services are necessary to ensure an equal opportunity to participate for individuals with disabilities.

(3) A managed care plan does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, marital status, gender, gender identity, sexual orientation, age, or disability.

(4) The availability of a grievance procedure and how to file a grievance, including identification of, and contact information for, the designated managed care plan representative.

(5) How to file a discrimination complaint with the United States Department of Health and Human Services Office for Civil Rights if there is a concern of discrimination based on race, color, national origin, age, disability, or sex.

(f) (1) The information described in paragraph (3) of subdivision (a) and subdivision (e) shall be provided in the following manner:

(A) In the evidence of coverage.

(B) Posted in conspicuous physical locations where the managed care plan interacts with the public.

(C) On the Internet Web site published and maintained by the managed care plan in a manner that allows a beneficiary, prospective beneficiary, and members of the public to easily locate the information.

(2) To the extent the information described in paragraph (3) of subdivision (a) and subdivision (e) is not included in existing informational notices, a managed care plan shall add this information at the time of the next regularly scheduled update of the

applicable publication.

(g) The amendments made to this section by Chapter 771 of the Statutes of 2017 shall be implemented by the department only to the extent that federal financial participation is available and is not otherwise jeopardized.

(h) This section does not apply to mental health plans contracting with the department pursuant to Section 14712.

(i) For purposes of this section, a person is "limited-English-proficient" if he or she speaks English less than very well.

**SEC. 235.** Section 14029.92 of the Welfare and Institutions Code is amended to read:

**14029.92.** (a) The department shall notify Medi-Cal beneficiaries, prospective beneficiaries, and members of the public of all of the following information:

(1) The availability of language assistance services, including oral interpretation and translated written materials, free of charge and in a timely manner, when those services are necessary to provide meaningful access to individuals with limited English proficiency.

(2) The availability of appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when those aids and services are necessary to ensure an equal opportunity to participate for individuals with disabilities.

(3) The department does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, marital status, gender, gender identity, sexual orientation, age, or disability.

(4) The availability of the grievance procedure and how to file a grievance, including identification of, and contact information for, the designated department representative.

(5) How to file a discrimination complaint with the United States Department of Health and Human Services Office for Civil Rights if there is a concern of discrimination based on race, color, national origin, age, disability, or sex.

(b) Written notice of the availability of free language assistance services shall be provided in English and in the top 15 languages spoken by limited-English-proficient individuals in California, as determined by the department, and consistent with the requirements identified in Part 92 of Title 45 of the Code of Federal Regulations and Section 1557 of the federal Patient Protection and Affordable Care Act (42 U.S.C. Sec. 18116).

(c) (1) The information described in subdivisions (a) and (b) shall be provided in the following manner:

(A) In the department's Medi-Cal informational publications.

(B) Posted in conspicuous physical locations where the department interacts with the public.

(C) On the department's Internet Web site, in a manner that allows beneficiaries, prospective beneficiaries, and members of the public to easily locate the information.

(2) To the extent the information described in subdivisions (a) and (b) is not included in existing informational notices, the department shall add this information at the time of the next regularly scheduled update of the applicable publication.

(d) This section shall be implemented only to the extent that federal financial participation is available and is not otherwise jeopardized.

**SEC. 236.** Section 14132.100 of the Welfare and Institutions Code is amended to read:

**14132.100.** (a) The federally qualified health center services described in Section 1396d(a)(2)(C) of Title 42 of the United States Code are covered benefits.

(b) The rural health clinic services described in Section 1396d(a)(2)(B) of Title 42 of the United States Code are covered benefits.

(c) Federally qualified health center services and rural health clinic services shall be reimbursed on a per-visit basis in accordance with the definition of "visit" set forth in subdivision (g).

(d) Effective October 1, 2004, and on each October 1 thereafter, until no longer required by federal law, federally qualified health center (FQHC) and rural health clinic (RHC) per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section 1396a(bb)(3)(A) of Title 42 of the United States Code. Before January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

- (e) (1) An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of services provided by the FQHC or RHC. Rate changes based on a change in the scope of services provided by an FQHC or RHC shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.
- (2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:
- (A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.
  - (B) A change in service due to amended regulatory requirements or rules.
  - (C) A change in service resulting from relocating or remodeling an FQHC or RHC.
  - (D) A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.
  - (E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.
  - (F) Changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.
  - (G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical practices at the center or clinic.
  - (H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.
  - (I) Changes in the scope of a project approved by the federal Health Resources and Services Administration (HRSA).
- (3) A change in costs shall not, in and of itself, be considered a scope-of-service change unless all of the following apply:
- (A) The increase or decrease in cost is attributable to an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.
  - (B) The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.
  - (C) The change in the scope of services is a change in the type, intensity, duration, or amount of services, or any combination thereof.
  - (D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average per-visit rate of all sites for the purposes of calculating the cost associated with a scope-of-service change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.
- (4) An FQHC or RHC may submit requests for scope-of-service changes once per fiscal year, only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.
- (5) An FQHC or RHC shall submit a scope-of-service rate change request within 90 days of the beginning of any FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the scope of services provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues providing onsite pharmacy or dental services, it shall submit a scope-of-service rate change request within 90 days of the beginning of the following fiscal year. The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, "significantly lower" means an average per-visit rate decrease in excess of 2.5 percent.
- (6) Notwithstanding paragraph (4), if the approved scope-of-service change or changes were initially implemented on or after the first day of an FQHC's or RHC's fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a scope-of-service change, the adjusted reimbursement rate for that scope-of-service change shall

be made retroactive to the date the scope-of-service change was initially implemented. Scope-of-service changes under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003.

(7) All references in this subdivision to "fiscal year" shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

(f) (1) An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision (l). These supplemental payments shall be determined separately from the scope-of-service adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include both of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g) (1) An FQHC or RHC "visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, "physician" shall be interpreted in a manner consistent with the federal Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Services Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a physician and surgeon, osteopath, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit.

(2) (A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist.

(B) Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals or marriage and family therapists that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC's rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist has been approved. An approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall

be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but the effective date shall not be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental hygienist, dental hygienist in alternative practice, or marriage and family therapist services, and later elects to add these services and bill these services as a separate visit, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(3) Notwithstanding any other provision of this section, no later than July 1, 2018, a visit shall include a marriage and family therapist.

(h) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity, as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code, the Medicare Program, or the Child Health and Disability Prevention (CHDP) Program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and shall not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

(i) (1) An entity that first qualifies as an FQHC or RHC in the year 2001 or later, a newly licensed facility at a new location added to an existing FQHC or RHC, and any entity that is an existing FQHC or RHC that is relocated to a new site shall each have its reimbursement rate established in accordance with one of the following methods, as selected by the FQHC or RHC:

(A) The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or adjacent area with a similar caseload.

(B) In the absence of three comparable FQHCs or RHCs with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, health care, and economic characteristics.

(C) At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the first 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

(D) The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(2) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

(3) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis under its existing provider number until it is informed of its FQHC or RHC enrollment approval, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, or in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, shall be billed by and reimbursed at the same rate as the FQHC or RHC establishing the intermittent clinic site or the mobile unit, subject to the right of the FQHC or RHC to request a scope-of-service adjustment to the rate.

(k) An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as scope-of-service changes. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject

to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable scope-of-service adjustments as provided in subdivision (e).

(l) Reimbursement for Drug Medi-Cal services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC may elect to have Drug Medi-Cal services reimbursed directly from a county or the department under contract with the FQHC or RHC pursuant to paragraph (4).

(2) (A) For an FQHC or RHC to receive reimbursement for Drug Medi-Cal services directly from the county or the department under contract with the FQHC or RHC pursuant to paragraph (4), costs associated with providing Drug Medi-Cal services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing Drug Medi-Cal services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering Drug Medi-Cal services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver Drug Medi-Cal services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering Drug Medi-Cal services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing Drug Medi-Cal services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the Drug Medi-Cal services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a scope-of-service change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering Drug Medi-Cal services outside of the PPS rate. Notwithstanding subdivision (e), the scope-of-service change request shall include a full fiscal year of activity that does not include Drug Medi-Cal services costs.

(B) An FQHC or RHC may submit requests for scope-of-service change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any scope-of-service change request under this subdivision approved by the department shall be retroactive to the first day that Drug Medi-Cal services were rendered and reimbursement for Drug Medi-Cal services was received outside of the PPS rate, but the effective date shall not be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for Drug Medi-Cal services outside of the PPS rate when the FQHC or RHC obtains approval as a Drug Medi-Cal provider and enters into a contract with a county or the department to provide these services pursuant to paragraph (4).

(D) Within 90 days of receipt of the request for a scope-in-service change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for scope-of-service change under this subdivision shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(F) For purposes of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing federally qualified health center services or rural health center services and Drug Medi-Cal services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate and the FQHC or RHC is approved as a Drug Medi-Cal provider, an FQHC or RHC shall not bill the PPS rate for any Drug Medi-Cal services provided pursuant to a contract entered into with a county or the department pursuant to paragraph (4).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with the applicable scope-of-service adjustments as provided for in subdivision (e).

(4) Reimbursement for Drug Medi-Cal services shall be determined according to subparagraph (A) or (B), depending on whether the services are provided in a county that participates in the Drug Medi-Cal organized delivery system (DMC-ODS).

(A) In a county that participates in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county or county designee and the FQHC or RHC. If the county or county designee refuses to contract with the FQHC or RHC, the FQHC or RHC may follow the contract denial process set forth in the Special Terms and Conditions.

(B) In a county that does not participate in the DMC-ODS, the FQHC or RHC shall receive reimbursement pursuant to a mutually agreed upon contract entered into between the county and the FQHC or RHC. If the county refuses to contract with the FQHC or RHC, the FQHC or RHC may request to contract directly with the department and shall be reimbursed for those services at the Drug Medi-Cal fee-for-service rate.

(5) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments for Drug Medi-Cal services made pursuant to this subdivision.

(6) For purposes of this subdivision, the following definitions shall apply:

(A) "Drug Medi-Cal organized delivery system" or "DMC-ODS" means the Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services and described in the Special Terms and Conditions.

(B) "Special Terms and Conditions" shall have the same meaning as set forth in subdivision (o) of Section 14184.10.

(m) Reimbursement for specialty mental health services shall be provided pursuant to this subdivision.

(1) An FQHC or RHC and one or more mental health plans that contract with the department pursuant to Section 14712 may mutually elect to enter into a contract to have the FQHC or RHC provide specialty mental health services to Medi-Cal beneficiaries as part of the mental health plan's network.

(2) (A) For an FQHC or RHC to receive reimbursement for specialty mental health services pursuant to a contract entered into with the mental health plan under paragraph (1), the costs associated with providing specialty mental health services shall not be included in the FQHC's or RHC's per-visit PPS rate. For purposes of this subdivision, the costs associated with providing specialty mental health services shall not be considered to be within the FQHC's or RHC's clinic base PPS rate if in delivering specialty mental health services the clinic uses different clinical staff at a different location.

(B) If the FQHC or RHC does not use different clinical staff at a different location to deliver specialty mental health services, the FQHC or RHC shall submit documentation, in a manner determined by the department, that the current per-visit PPS rate does not include any costs related to rendering specialty mental health services, including costs related to utilizing space in part of the FQHC's or RHC's building, that are or were previously calculated as part of the clinic's base PPS rate.

(3) If the costs associated with providing specialty mental health services are within the FQHC's or RHC's clinic base PPS rate, as determined by the department, the specialty mental health services costs shall be adjusted out of the FQHC's or RHC's per-visit PPS rate as a change in scope of service.

(A) An FQHC or RHC shall submit to the department a scope-of-service change request to adjust the FQHC's or RHC's clinic base PPS rate after the first full fiscal year of rendering specialty mental health services outside of the PPS rate. Notwithstanding subdivision (e), the scope-of-service change request shall include a full fiscal year of activity that does not include specialty mental health services costs.

(B) An FQHC or RHC may submit requests for a scope-of-service change under this subdivision only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any scope-of-service change request under this subdivision approved by the department shall be retroactive to the first day that specialty mental health services were rendered and reimbursement for specialty mental health services was received outside of the PPS rate, but the effective date shall not be earlier than January 1, 2018.

(C) The FQHC or RHC may bill for specialty mental health services outside of the PPS rate when the FQHC or RHC contracts with a mental health plan to provide these services pursuant to paragraph (1).

(D) Within 90 days of receipt of the request for a scope-in-service change under this subdivision, the department shall issue the FQHC or RHC an interim rate equal to 90 percent of the FQHC's or RHC's projected allowable cost, as determined by the department. An audit to determine the final rate shall be performed in accordance with Section 14170.

(E) Rate changes based on a request for scope-of-service change under this subdivision shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(F) For the purpose of recalculating the PPS rate, the FQHC or RHC shall provide upon request to the department verifiable documentation as to which employees spent time, and the actual time spent, providing federally qualified health center services or rural health center services and specialty mental health services.

(G) After the department approves the adjustment to the FQHC's or RHC's clinic base PPS rate, an FQHC or RHC shall not bill the PPS rate for any specialty mental health services that are provided pursuant to a contract entered into with a mental health plan pursuant to paragraph (1).

(H) An FQHC or RHC that reverses its election under this subdivision shall revert to its prior PPS rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with the applicable scope-of-service adjustments as provided for in subdivision (e).

(4) The department shall not reimburse an FQHC or RHC pursuant to subdivision (h) for the difference between its per-visit PPS rate and any payments made for specialty mental health services under this subdivision.

(n) FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, scope-of-service changes, and settlement of cost report audits, in the manner prescribed by Section 14171. The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

(o) The department shall promptly seek all necessary federal approvals in order to implement this section, including any amendments to the state plan. To the extent that any element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for any waivers that would be necessary to implement this section.

(p) The department shall implement this section only to the extent that federal financial participation is available.

(q) Notwithstanding any other law, the director may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific subdivisions (l) and (m) by means of a provider bulletin or similar instruction. The department shall notify and consult with interested parties and appropriate stakeholders in implementing, interpreting, or making specific the provisions of subdivisions (l) and (m), including all of the following:

(1) Notifying provider representatives in writing of the proposed action or change. The notice shall occur, and the applicable draft provider bulletin or similar instruction, shall be made available at least 10 business days before the meeting described in paragraph (2).

(2) Scheduling at least one meeting with interested parties and appropriate stakeholders to discuss the proposed action or change.

(3) Allowing for written input regarding the proposed action or change, to which the department shall provide summary written responses in conjunction with the issuance of the applicable final written provider bulletin or similar instruction.

(4) Providing at least 60 days advance notice of the effective date of the proposed action or change.

**SEC. 237.** Section 14132.97 of the Welfare and Institutions Code is amended to read:

**14132.97.** (a) (1) For purposes of this section, "waiver personal care services" means personal care services authorized by the department for persons who are eligible for either nursing or model nursing facility waiver services.

(2) Waiver personal care services shall satisfy all of the following criteria:

(A) The services shall be defined in the nursing and model nursing facility waivers.

(B) The services shall differ in scope from services that may be authorized under Section 14132.95 or 14132.952.

(C) The services shall not replace any hours of services authorized or that may be authorized under Section 14132.95 or 14132.952.

(b) An individual may receive waiver personal care services if all of the following conditions are met:

(1) The individual has been approved by the department to receive services in accordance with a waiver approved under Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)) for persons who would otherwise require care in a nursing facility.

(2) The individual has doctor's orders that specify that he or she requires waiver personal care services in order to remain in his or her own home.

(3) The individual chooses, either personally or through a substitute decisionmaker who is recognized under state law for purposes of giving consent for medical treatment, to receive waiver personal care services, as well as medically necessary skilled nursing services, in order to remain in his or her own home.

(4) The waiver personal care services and all other waiver services for the individual do not result in costs that exceed the fiscal limit established under the waiver.

(c) The department shall notify the administrator of the in-home supportive services program in the county of residence of any individual who meets all requirements of subdivision (b) and has been authorized by the department to receive waiver personal care services. The county of residence shall then do the following:

(1) Inform the department of the services that the individual is authorized to receive under Section 14132.95 or 14132.952 at the time he or she becomes eligible for waiver personal care services.

(2) Determine the individual's eligibility for services under Section 14132.95 or 14132.952 if he or she is not currently authorized to receive those services and if he or she has not been previously determined eligible for those services.

(3) Implement the department's authorization for waiver personal care services for the individual at the quantity and scope authorized by the department.

(d) (1) Waiver personal care services approved by the department for individuals who meet the requirements of subdivision (b) may be provided in either of the following ways, or a combination of both:

(A) By a licensed and certified home health agency participating in the Medi-Cal program.

(B) By one or more providers of personal care services under Article 7 (commencing with Section 12300) of Chapter 3 and subdivision (d) of Section 14132.95, when the individual elects, in writing, to utilize these service providers.

(2) The department shall approve waiver personal care services for individuals who meet the requirements of subdivision (b) only when the department finds that the individual's receipt of waiver personal care services is necessary in order to enable the individual to be maintained safely in his or her own home and community.

(3) If waiver personal care services are provided by a licensed and certified home health agency, the home health agency shall receive payment in the manner by which it would receive payment for any other service approved by the department.

(4) If waiver personal care services are provided by one or more providers of personal care services under Article 7 (commencing with Section 12300) of Chapter 3 and subdivision (d) of Section 14132.95, the providers shall receive payment on a schedule and in a manner by which providers of personal care services receive payment. The State Department of Social Services shall commence making payments for waiver personal care services when its payment system has been modified to accommodate those payments. A county shall not be obligated to administer waiver personal care services until the State Department of Social Services payment system has been modified to accommodate those payments. However, a county or public authority or nonprofit consortium that administers the in-home supportive services program and personal care services program may pay providers for the delivery of waiver personal care services if it chooses to do so, in which case the county, public authority, or nonprofit consortium shall be reimbursed by the department for the waiver personal care services authorized by the department and provided to an individual upon submittal of documentation as required by the waiver, and in accordance with the requirements of the department.

(e) Waiver personal care services shall not be included as alternative resources in a county's determination of the amount of services an individual may receive under Section 14132.95 or 14132.952.

(f) Any administrative costs to the State Department of Social Services, a county, or a public authority or nonprofit consortium associated with implementing this section shall be considered administrative costs under the waiver and shall be reimbursed by the department.

(g) Two hundred fifty thousand dollars (\$250,000) is appropriated from the General Fund to the State Department of Social Services for the 1998–99 fiscal year for the purpose of making changes to the case management, information, and payrolling system that are necessary for the implementation of this section.

(h) This section shall not be implemented until the department has obtained federal approval of any necessary amendments to the existing nursing facility and model nursing facility waivers and the state plan under Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.). Any amendments to the existing nursing facility and model nursing facility waivers and the state plan which are deemed to be necessary by the director shall be submitted to the federal Health Care Financing Administration by April 1, 1999.

(i) The department shall implement this section only to the extent that its implementation results in fiscal neutrality, as required under the terms of the waivers.

**SEC. 238.** Section 14197 of the Welfare and Institutions Code is amended to read:

**14197.** (a) It is the intent of the Legislature that the department implement and monitor compliance with the time and distance requirements set forth in Sections 438.68, 438.206, and 438.207 of Title 42 of the Code of Federal Regulations and this section, to ensure that all Medi-Cal managed care covered services are available and accessible to enrollees of Medi-Cal managed care plans in a timely manner, as those standards were enacted in May 2016.

(b) Commencing January 1, 2018, for covered benefits under its contract, as applicable, a Medi-Cal managed care plan shall maintain a network of providers that are located within the following time and distance standards for the following services:

- (1) For primary care, both adult and pediatric, 10 miles or 30 minutes from the beneficiary's place of residence.
- (2) For hospitals, 15 miles or 30 minutes from the beneficiary's place of residence.
- (3) For dental services provided by a Medi-Cal managed care plan, 10 miles or 30 minutes from the beneficiary's place of residence.
- (4) For obstetrics and gynecology primary care, 10 miles or 30 minutes from the beneficiary's place of residence.

(c) Commencing July 1, 2018, for the covered benefits under its contracts, as applicable, a Medi-Cal managed care plan shall maintain a network of providers that are located within the following time and distance standards for the following services:

(1) For specialists, as defined in subdivision (h), adult and pediatric, including obstetric and gynecology specialty care, as follows:

(A) Up to 15 miles or 30 minutes from the beneficiary's place of residence for the following counties: Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara.

(B) Up to 30 miles or 60 minutes from the beneficiary's place of residence for the following counties: Marin, Placer, Riverside, San Joaquin, Santa Cruz, Solano, Sonoma, Stanislaus, and Ventura.

(C) Up to 45 miles or 75 minutes from the beneficiary's place of residence for the following counties: Amador, Butte, El Dorado, Fresno, Kern, Kings, Lake, Madera, Merced, Monterey, Napa, Nevada, San Bernardino, San Luis Obispo, Santa Barbara, Sutter, Tulare, Yolo, and Yuba.

(D) Up to 60 miles or 90 minutes from the beneficiary's place of residence for the following counties: Alpine, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Lassen, Mariposa, Mendocino, Modoc, Mono, Plumas, San Benito, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne.

(2) For pharmacy services, 10 miles or 30 minutes from the beneficiary's place of residence.

(3) For outpatient mental health services, as follows:

(A) Up to 15 miles or 30 minutes from the beneficiary's place of residence for the following counties: Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara.

(B) Up to 30 miles or 60 minutes from the beneficiary's place of residence for the following counties: Marin, Placer, Riverside, San Joaquin, Santa Cruz, Solano, Sonoma, Stanislaus, and Ventura.

(C) Up to 45 miles or 75 minutes from the beneficiary's place of residence for the following counties: Amador, Butte, El Dorado, Fresno, Kern, Kings, Lake, Madera, Merced, Monterey, Napa, Nevada, San Bernardino, San Luis Obispo, Santa Barbara, Sutter, Tulare, Yolo, and Yuba.

(D) Up to 60 miles or 90 minutes from the beneficiary's place of residence for the following counties: Alpine, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Lassen, Mariposa, Mendocino, Modoc, Mono, Plumas, San Benito, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne.

(4) (A) For outpatient substance use disorder services other than opioid treatment programs, as follows:

(i) Up to 15 miles or 30 minutes from the beneficiary's place of residence for the following counties: Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara.

(ii) Up to 30 miles or 60 minutes from the beneficiary's place of residence for the following counties: Marin, Placer, Riverside, San Joaquin, Santa Cruz, Solano, Sonoma, Stanislaus, and Ventura.

(iii) Up to 60 miles or 90 minutes from the beneficiary's place of residence for the following counties: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen,

Madera, Mariposa, Mendocino, Merced, Modoc, Monterey, Mono, Napa, Nevada, Plumas, San Benito, San Bernardino, San Luis Obispo, Santa Barbara, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba.

(B) For opioid treatment programs, as follows:

(i) Up to 15 miles or 30 minutes from the beneficiary's place of residence for the following counties: Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara.

(ii) Up to 30 miles or 60 minutes from the beneficiary's place of residence for the following counties: Marin, Placer, Riverside, San Joaquin, Santa Cruz, Solano, Sonoma, Stanislaus, and Ventura.

(iii) Up to 45 miles or 75 minutes from the beneficiary's place of residence for the following counties: Amador, Butte, El Dorado, Fresno, Kern, Kings, Lake, Madera, Merced, Monterey, Napa, Nevada, San Bernardino, San Luis Obispo, Santa Barbara, Sutter, Tulare, Yolo, and Yuba.

(iv) Up to 60 miles or 90 minutes from the beneficiary's place of residence for the following counties: Alpine, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Lassen, Mariposa, Mendocino, Modoc, Mono, Plumas, San Benito, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne.

(d) (1) (A) A Medi-Cal managed care plan shall comply with the appointment time standards developed pursuant to Section 1367.03 of the Health and Safety Code, Section 1300.67.2.2 of Title 28 of the California Code of Regulations, subject to any allowable exceptions in Section 1300.67.2.2 of Title 28 of the California Code of Regulations, and the standards set forth in contracts entered into between the department and Medi-Cal managed care plans.

(B) Commencing July 1, 2018, subparagraph (A) applies to Medi-Cal managed care plans that are not, as of January 1, 2018, subject to the appointment time standards described in subparagraph (A).

(2) A Medi-Cal managed care plan shall comply with the following availability standards for skilled nursing facility services and intermediate care facility services, as follows:

(A) Within five business days of the request for the following counties: Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara.

(B) Within seven business days of the request for the following counties: Marin, Placer, Riverside, San Joaquin, Santa Cruz, Solano, Sonoma, Stanislaus, and Ventura.

(C) Within 14 calendar days of the request for the following counties: Amador, Butte, El Dorado, Fresno, Kern, Kings, Lake, Madera, Merced, Monterey, Napa, Nevada, San Bernardino, San Luis Obispo, Santa Barbara, Sutter, Tulare, Yolo, and Yuba.

(D) Within 14 calendar days of the request for the following counties: Alpine, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Lassen, Mariposa, Mendocino, Modoc, Mono, Plumas, San Benito, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne.

(3) A county Drug Medi-Cal organized delivery system shall provide an appointment within three business days to an opioid treatment program.

(4) A dental managed care plan shall provide an appointment within four weeks of a request for routine pediatric dental services and within 30 calendar days of a request for specialist pediatric dental services.

(e) (1) The department, upon request of a Medi-Cal managed care plan, may allow alternative access standards for the time and distance standards established under this section if either of the following occur:

(A) The requesting Medi-Cal managed care plan has exhausted all other reasonable options to obtain providers to meet the applicable standard.

(B) The department determines that the requesting Medi-Cal managed care plan has demonstrated that its delivery structure is capable of delivering the appropriate level of care and access.

(2) If a Medi-Cal managed care plan cannot meet the time and distance standards set forth in this section, the Medi-Cal managed care plan shall submit a request for alternative access standards to the department, in the form and manner specified by the department. A request may be submitted at the same time as the Medi-Cal managed care plan submits its annual demonstration of compliance with time and distance standards, if known at that time.

(3) A request for alternative access standards shall be approved or denied on a ZIP Code and provider type, including specialty type, basis by the department within 90 days of submission of the request. The Medi-Cal managed care plan shall also include a description of the reasons justifying the alternative access standards based on those facts and circumstances. The department may stop the 90-day timeframe, on one or more occasions as necessary, in the event of an incomplete submission or to obtain additional information from the Medi-Cal managed care plan requesting the alternative access standards. Upon submission of sufficient additional information to the department, the 90-day timeframe shall resume at the same point in time it was previously stopped, except if there is less than 30 days remaining in which case the department shall approve or deny the request within 30 days of submission of sufficient additional information. If the department rejects the Medi-Cal managed care plan's proposal, the department shall inform the Medi-Cal managed care plan of the department's reason for rejecting the proposal. The department shall post any approved alternative access standards on its Internet Web site.

(4) The department may allow for the use of clinically appropriate telecommunications technology as a means of determining annual compliance with the time and distance standards established pursuant to this section or approving alternative access to care, including telehealth consistent with the requirements of Section 2290.5 of the Business and Professions Code, e-visits, or other evolving and innovative technological solutions that are used to provide care from a distance.

(f) (1) Effective for contract periods commencing on or after July 1, 2018, a Medi-Cal managed care plan shall, on an annual basis and when requested by the department, demonstrate to the department its compliance with the time and distance and appointment time standards developed pursuant to this section. The report shall measure compliance separately for adult and pediatric services for primary care, behavioral health, and core specialist services.

(2) Effective for contract periods commencing on or after July 1, 2018, the department shall evaluate on an annual basis a Medi-Cal managed care plan's compliance with the time and distance and appointment time standards implemented pursuant to this section. This evaluation may include, but need not be limited to, annual and random surveys, investigation of complaints, grievances or other indicia of noncompliance. Nothing in this subdivision shall be construed to limit the appeal rights of a Medi-Cal managed care plan under its contracts with the department.

(3) The department shall annually publish on its Internet Web site a report in which it details its findings in evaluating a Medi-Cal managed care plan's compliance under paragraph (2). At a minimum, the department shall specify in this report those Medi-Cal managed care plans, if any, that were subject to a corrective action plan due to noncompliance with the time and distance and appointment time standards implemented pursuant to this section during the applicable year and the basis for the department's finding of noncompliance. The report shall include a Medi-Cal managed care plan's response to the corrective plan, if available.

(g) The department shall consult with Medi-Cal managed care plans, including mental health plans, health care providers, consumers, providers and consumers of LTSS, and organizations representing Medi-Cal beneficiaries in the implementation of the requirements of this section.

(h) For purposes of this section, the following definitions apply:

(1) "Medi-Cal managed care plan" means any individual, organization, or entity that enters into a contract with the department to provide services to enrolled Medi-Cal beneficiaries pursuant to any of the following:

(A) Article 2.7 (commencing with Section 14087.3), including dental managed care programs developed pursuant to Section 14087.46.

(B) Article 2.8 (commencing with Section 14087.5).

(C) Article 2.81 (commencing with Section 14087.96).

(D) Article 2.82 (commencing with Section 14087.98).

(E) Article 2.9 (commencing with Section 14088).

(F) Article 2.91 (commencing with Section 14089).

(G) Chapter 8 (commencing with Section 14200), including dental managed care plans.

(H) Chapter 8.9 (commencing with Section 14700).

(I) A county Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services and described in the Special Terms and Conditions. For purposes of this subdivision, "Special Terms and Conditions" shall have the same meaning as set forth in subdivision (o) of Section 14184.10.

(2) "Specialist" means any of the following:

- (A) Cardiology/interventional cardiology.
- (B) Nephrology.
- (C) Dermatology.
- (D) Neurology.
- (E) Endocrinology.
- (F) Ophthalmology.
- (G) Ear, nose, and throat/otolaryngology.
- (H) Orthopedic surgery.
- (I) Gastroenterology.
- (J) Physical medicine and rehabilitation.
- (K) General surgery.
- (L) Psychiatry.
- (M) Hematology.
- (N) Oncology.
- (O) Pulmonology.
- (P) HIV/AIDS specialists/infectious diseases.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted.

(j) The department shall seek any federal approvals it deems necessary to implement this section. This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized.

(k) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.

**SEC. 239.** Section 14727 of the Welfare and Institutions Code is amended to read:

**14727.** (a) A mental health plan shall notify beneficiaries, prospective beneficiaries, and members of the public of all of the following information:

- (1) The availability of language assistance services, including oral interpretation and translated written materials, free of charge and in a timely manner, when those services are necessary to provide meaningful access to an individual with limited English proficiency.
- (2) The availability of appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when those aids and services are necessary to ensure an equal opportunity to participate for individuals with disabilities.
- (3) A mental health plan does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, marital status, gender, gender identity, sexual orientation, age, or disability.
- (4) The availability of the grievance procedure and how to file a grievance, including identification of, and contact information for, the designated mental health plan representative.
- (5) How to file a discrimination complaint with the United States Department of Health and Human Services Office for Civil Rights if there is a concern of discrimination based on race, color, national origin, age, disability, or sex.

(b) Written notice of the availability of free language assistance services shall be provided in English and in the top 15 languages spoken by limited-English-proficient individuals in California, as determined by the department, and consistent with the requirements identified in Part 92 of Title 45 of the Code of Federal Regulations and Section 1557 of the federal Patient Protection and Affordable Care Act (42 U.S.C. Sec. 18116).

(c) (1) The information described in subdivisions (a) and (b) shall be provided in the following manner:

(A) In the beneficiary handbook.

(B) Posted in conspicuous physical locations where the mental health plan interacts with the public.

(C) On the Internet Web site published and maintained by the mental health plan, in a manner that allows beneficiaries, prospective beneficiaries, and members of the public to easily locate the information.

(2) To the extent the information described in subdivisions (a) and (b) is not included in existing informational notices, a mental health plan shall add this information at the time of the next regularly scheduled update of the applicable publication.

(d) Oral interpretation services shall be provided by an interpreter that, at a minimum, meets all of the following qualifications:

(1) Demonstrated proficiency in both English and the target language.

(2) Knowledge in both English and the target language of health care terminology and concepts relevant to health care delivery systems.

(3) Adheres to generally accepted interpreter ethics principles, including client confidentiality.

(e) A mental health plan shall not require a beneficiary with limited English proficiency to provide his or her own interpreter or rely on a staff member who does not meet the qualifications described in subdivision (d) to communicate directly with the limited-English-proficient beneficiary.

(f) A mental health plan shall not rely on an adult or minor child accompanying the limited-English-proficient beneficiary to interpret or facilitate communication except under either of the following circumstances:

(1) In an emergency, as defined by the department, and an interpreter who meets the qualifications described in subdivision (d) is not immediately available for the beneficiary with limited English proficiency.

(2) If the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances.

(g) This section shall be implemented only to the extent that federal financial participation is available and is not otherwise jeopardized.

**SEC. 240.** Section 16501 of the Welfare and Institutions Code is amended to read:

**16501.** (a) (1) As used in this chapter, "child welfare services" means public social services that are directed toward the accomplishment of any or all of the following purposes: protecting and promoting the welfare of all children, including disabled, homeless, dependent, or neglected children; preventing or remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children; preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; restoring to their families children who have been removed, by the provision of services to the child and the families; identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and ensuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

(2) "Child welfare services" also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family preservation services, family maintenance services, family reunification services, and permanent placement services, including supportive transition services. The individual child's case plan is the guiding principle in the provision of these services. The case plan shall be developed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever comes first.

(3) "Child welfare services" are best provided in a framework that integrates service planning and delivery among multiple service systems, including the mental health system, using a team-based approach, such as a child and family team. A child

and family team brings together individuals that engage with the child or youth and family in assessing, planning, and delivering services consistent with paragraph (1) of subdivision (d) of Section 16501.1. Use of a team approach increases efficiency, and thus reduces cost, by increasing coordination of formal services and integrating the natural and informal supports available to the child or youth and family.

(4) "Child and family team" means a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and his or her family, and to help achieve positive outcomes for safety, permanency, and well-being.

(A) The activities of the team shall include, but not be limited to, both of the following:

(i) Providing input into the development of a child and family plan that is strengths-based, needs-driven, and culturally relevant.

(ii) Providing input into the placement decision made by the placing agency and the services to be provided in order to support the child or youth.

(B) The child and family team process shall engage the child or youth, the child's family, and other people important to the family or to the child or youth in meeting the objectives set forth in subparagraph (A). The child and family team shall also include representatives who provide formal supports to the child or youth and family when appropriate, including, but not limited to, the caregiver, the placing agency caseworker, a representative from a foster family agency or short-term residential therapeutic program with which a child or youth is placed, a county mental health representative, a representative from the regional center when the child is eligible for regional center service, and a representative of the child's or youth's tribe or Indian custodian, as applicable. As appropriate, the child and family team also may include other formal supports, such as substance use disorder treatment professionals and educational professionals, providing services to the child or youth and family. For purposes of this definition, the child and family team also may include extended family and informal support persons, such as friends, coaches, faith-based connections, and tribes as identified by the child or youth and family. If placement into a short-term residential therapeutic program or a foster family agency that provides treatment services has occurred or is being considered, the mental health representative is required to be a licensed mental health professional. A party to the child's case who is represented by an attorney may consult with his or her attorney regarding this process. The child or youth and his or her family may request specific persons to be included on the child and family team. Another agency serving the child or youth is not precluded from convening a team in collaboration with the placing agency.

(5) Child welfare services may include, but are not limited to, a range of service-funded activities, including case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, respite care, therapeutic day services, teaching and demonstrating homemakers, parenting training, substance abuse testing, transportation, and specialized permanency services. These service-funded activities shall be available to children and their families in all phases of the child welfare program in accordance with the child's case plan and departmental regulations. Funding for services is limited to the amount appropriated in the annual Budget Act and other available county funds.

(6) Service-funded activities to be provided may be determined by each county, based upon individual child and family needs as reflected in the service plan.

(7) As used in this chapter, "emergency shelter care" means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their guardian or guardians. The department may establish, by regulation, the time periods for which emergency shelter care shall be funded. For the purposes of this paragraph, "emergency shelter care" may include "transitional shelter care facilities" as defined in paragraph (11) of subdivision (a) of Section 1502 of the Health and Safety Code.

(8) As used in this chapter, "specialized permanency services" means services to assist a child or nonminor dependent whose case plan is for permanent placement or supportive transition to adulthood in achieving a permanent family through reunification, adoption, legal guardianship, or other lifelong connection to caring adults, including at least one adult who will provide a permanent, parent-like relationship for the child or nonminor dependent. Specialized permanency services are designed for and with the child to address the child's history of trauma, separation, and loss. "Specialized permanency services" may include all of the following:

(A) Medically necessary mental health services, if the medical necessity criteria for Medi-Cal specialty mental health services, as described in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations, are met, as needed to ameliorate impairments in significant areas of life functioning that may reduce the likelihood of the child or nonminor dependent achieving a permanent family, and may include other services designed to address the child's or nonminor

dependent's history of trauma, grief, loss, stigma, and rejection that reduce the likelihood of the child or nonminor dependent achieving a permanent family.

(B) Permanency support core services, as appropriate to achieve, stabilize, and sustain the child or nonminor dependent in a permanent family.

(C) Services designed to prepare the identified permanent family to meet the child's or nonminor dependent's needs, set appropriate expectations before and after permanency is achieved, and stabilize the placement.

(b) As used in this chapter, "respite care" means temporary care for periods not to exceed 72 hours, and, in order to preserve the placement, may be extended up to 14 days in any one month pending the development of policies and regulations in consultation with county placing agencies and stakeholders. This care may be provided to the child's parents or guardians. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing child care.

(c) The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the department. Counties may contract for service-funded activities as described in paragraph (1) of subdivision (a). Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services, except as specifically authorized in Section 16100.

(d) This chapter shall not be construed to affect duties that are delegated to probation officers pursuant to Sections 601 and 654.

(e) A county may utilize volunteer individuals to supplement professional child welfare services by providing ancillary support services in accordance with regulations adopted by the State Department of Social Services.

(f) As used in this chapter, emergency response services consist of a response system providing in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation, as required by Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of investigation pursuant to Section 11166 of the Penal Code and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. This evaluation includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.

(g) As used in this chapter, family maintenance services are activities designed to provide in-home protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

(h) As used in this chapter, family reunification services are activities designed to provide time-limited foster care services to prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.

(i) (1) As used in this chapter, permanent placement services are activities designed to provide an alternate permanent family structure for children who because of abuse, neglect, or exploitation cannot safely remain at home and who are unlikely to ever return home. These services shall be provided on behalf of children for whom there has been a judicial determination of a permanent plan for adoption, legal guardianship, placement with a fit and willing relative, or continued foster care placement, and, as needed, shall include supportive transition services to nonminor dependents, as described in subdivision (v) of Section 11400.

(2) For purposes of this section, "another planned permanent living arrangement" means a permanent plan ordered by the court for a child 16 years of age or older or a nonminor dependent, when there is a compelling reason or reasons to determine that it is not in the best interest of the child or nonminor dependent to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, or be placed with a fit and willing relative. Placement in a group home, or, on and after January 1, 2017, a short-term residential therapeutic program, shall not be the identified permanent plan for any child or nonminor dependent.

(j) As used in this chapter, family preservation services include those services specified in Section 16500.5 to avoid or limit out-of-home placement of children, and may include those services specified in that section to place children in the least restrictive environment possible.

(k) (1) (A) In a county electing to implement this subdivision, all county welfare department employees who have frequent and routine contact with children shall, by February 1, 1997, and all welfare department employees who are expected to have frequent and routine contact with children and who are hired on or after January 1, 1996, and all such employees whose duties change after January 1, 1996, to include frequent and routine contact with children, shall, if the employees provide services to

children who are alleged victims of abuse, neglect, or exploitation, sign a declaration under penalty of perjury regarding any prior criminal conviction, and shall provide a set of fingerprints to the county welfare director.

(B) The county welfare director shall secure from the Department of Justice a criminal record to determine whether the employee has ever been convicted of a crime other than a minor traffic violation. The Department of Justice shall deliver the criminal record to the county welfare director.

(C) If it is found that the employee has been convicted of a crime, other than a minor traffic violation, the county welfare director shall determine whether there is substantial and convincing evidence to support a reasonable belief that the employee is of good character so as to justify frequent and routine contact with children.

(D) An exemption shall not be granted pursuant to subparagraph (C) if the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in subdivision (a) of Section 273a of, or subdivision (b) or (c) of Section 368 of, the Penal Code, or has been convicted of an offense specified in subdivision (c) of Section 667.5 of the Penal Code. The county welfare director shall suspend such a person from any duties involving frequent and routine contact with children.

(E) Notwithstanding subparagraph (D), the county welfare director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual specified in paragraph (1) or (7) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's or prospective employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the county welfare director may give the employee or prospective employee an opportunity to explain the conviction and shall consider that explanation in the evaluation of the criminal conviction record.

(F) If criminal record information has not been recorded, the county welfare director shall cause a statement of that fact to be included in that person's personnel file.

(2) For purposes of this subdivision, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that the county welfare director is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this subdivision, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

**SEC. 241.** Section 201 of the San Joaquin River Exchange Contractors Groundwater Sustainability Agency Act (Chapter 357 of the Statutes of 2017) is amended to read:

**201.** (a) A groundwater management agency is hereby created in the Counties of Fresno, Madera, Merced, and Stanislaus to be known as the San Joaquin River Exchange Contractors Groundwater Sustainability Agency.

(b) The agency shall be the successor in interest to the San Joaquin River Exchange Contractors Water Authority Groundwater Sustainability Agency that submitted its notice of intent to become a groundwater sustainability agency to the Department of Water Resources on December 22, 2015.

(c) The agency shall only exercise the powers granted by this act and the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) for purposes of groundwater management activities within the boundaries of the agency, together with any other powers as are reasonably implied, necessary, and proper to carry out the objectives and purposes of the agency to implement the Sustainable Groundwater Management Act. The agency shall abide by the rules and regulations promulgated by the Department of Water Resources and the State Water Resources Control Board to implement the Sustainable Groundwater Management Act.

**SEC. 242.** Section 409 of the San Joaquin River Exchange Contractors Groundwater Sustainability Agency Act (Chapter 357 of the Statutes of 2017) is amended to read:

**409.** "Member agency" means a mutual water company, irrigation district, or water district entitled to representation on the agency's board of directors as specified in Section 501.

**SEC. 243.** Section 801 of the San Joaquin River Exchange Contractors Groundwater Sustainability Agency Act (Chapter 357 of the Statutes of 2017) is amended to read:

**801.** Pursuant to Chapter 8 (commencing with Section 10730) of Part 2.74 of Division 6 of the Water Code, the agency may impose fees, including, but not limited to, permit fees and fees on groundwater extraction or other regulated activity, to fund the costs of a groundwater sustainability program. Those costs include, but are not limited to, the costs of preparation, adoption, and amendment of a groundwater sustainability plan, investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve.

**SEC. 244.** Section 1 of Chapter 479 of the Statutes of 2017 is amended to read:

**Sec. 1.** The Legislature finds and declares all of the following:

(a) The Orange County Health Authority, also known as CalOptima, operates with a budget of \$3.4 billion and serves as a critical lifeline providing health care to almost 800,000 residents of the County of Orange.

(b) The Board of Supervisors of the County of Orange has a duty to appoint a governing body of the Orange County Health Authority that reflects the needs and interests of the residents of the County of Orange and CalOptima members.

(c) The Legislature encourages the Board of Supervisors of the County of Orange to consider each community served by CalOptima and take steps to ensure that those communities are adequately represented on the governing body and in the programs administered by the Orange County Health Authority.

(d) The Legislature will carefully examine all of the following factors when considering legislation to extend or modify the operation of Section 14087.59 of the Welfare and Institutions Code as added by this act:

(1) The efforts of the Board of Supervisors of the County of Orange to appoint a governing body that reflects the diverse backgrounds, interests, and demography of the persons residing in the County of Orange.

(2) Whether decisions by the governing body reflect concerns, values, and interests at the city, regional, and community levels.

(3) Whether decisions by the governing body reflect the needs of CalOptima members who require long-term care services and behavioral health treatment.

**SEC. 245.** Section 29 of the Santa Clarita Valley Water Agency Act (Chapter 833 of the Statutes of 2017) is amended to read:

**Sec. 29.** (a) On or before January 31, 2018, the agency shall submit an application for conditions addressing the creation of the agency to the Local Agency Formation Commission for the County of Los Angeles. The application shall include a copy of this act, a map and description of the boundaries of the agency, and a plan for providing services that includes the information described in Section 56653 of the Government Code, as applicable. The plan for providing services shall include Valencia Water Company, which will be integrated into the agency pursuant to subdivision (j) of Section 4. The application for conditions shall identify the functions or class of services that were being exercised by the Castaic Lake Water Agency and Newhall County Water District on December 31, 2017.

(b) The Local Agency Formation Commission for the County of Los Angeles shall hold a noticed public hearing regarding the application no later than 60 days after the submission of the application. The Local Agency Formation Commission for the County of Los Angeles shall prepare a written report, which may contain specific conditions pertaining to the formation of the agency as the commission may deem appropriate under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code). A condition specified in the written report shall be consistent with this act and shall be consistent with and subject to Sections 56853 and 56886 of the Government Code. The written report shall be completed and posted on the Local Agency Formation Commission for the County of Los Angeles Internet Web site and made available, upon request, to the public not less than five days before the date specified in the noticed hearing.

(c) Within 30 days of the public hearing, the Local Agency Formation Commission for the County of Los Angeles shall approve a final written report.

(d) Any specific conditions pertaining to the agency in the Local Agency Formation Commission for the County of Los Angeles final written report shall be applicable and binding upon the agency to the extent the conditions are not inconsistent with this act and Sections 56853 and 56886 of the Government Code.

(e) In addition to any conditions, the Local Agency Formation Commission for the County of Los Angeles shall certify in the written report the functions or class of services that were being exercised by the Castaic Lake Water Agency and the Newhall County Water District on December 31, 2017. Any other functions or class of services that are authorized by the act, but are not certified by the Local Agency Formation Commission for the County of Los Angeles, may only be exercised pursuant to application to, and approval of, the Local Agency Formation Commission for the County of Los Angeles pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code.

(f) Section 99 of the Revenue and Taxation Code does not apply to this section.

(g) Except as provided in this section as it relates to the imposition of conditions, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 does not apply to the agency's application for conditions.

(h) Notwithstanding any other provision in this act, the Local Agency Formation Commission for the County of Los Angeles shall not impose any condition on the agency that requires a protest proceeding or an election, as described in Part 4 (commencing with Section 57000) and Part 5 (commencing with Section 57300) of Division 3 of Title 5 of the Government Code, respectively.

(i) The agency shall reimburse the Local Agency Formation Commission for the County of Los Angeles for all costs associated with the submittal, review, consideration, preparation, and determination associated with the application for conditions and the preparation of the written report.

**SEC. 246.** Any section of any act enacted by the Legislature during the 2018 calendar year that takes effect on or before January 1, 2019, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted before, or subsequent to, the enactment of this act.