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AB-938 Maintenance of the codes. (2021-2022)

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Date Published: 07/26/2021 02:00 PM

Assembly Bill No. 938

CHAPTER 124

An act to amend Sections 2837.103 and 17525 of the Business and Professions Code, to amend Sections 1689.7, 1788.102, and 1788.105 of, and to amend and renumber Section 1179.04.5 of, the Civil Code, to amend Sections 488.375, 488.405, 492.010, 703.140, 704.060, 708.310, 917.7, 1010.6, and 2031.060 of the Code of Civil Procedure, to amend Sections 8209, 17463.7, 43505, 47612.7, 47653, 52064, 56345, 56836.06, and 56836.142 of the Education Code, to amend Section 2700 of the Elections Code, to amend Sections 3044, 3118, and 7630 of the Family Code, to amend Section 78002 of the Food and Agricultural Code, to amend Section 12893.1 of, and to amend and renumber Section 13975.2 of, the Government Code, to amend Section 105206 of the Health and Safety Code, to amend Section 1205 of the Labor Code, to amend Sections 236.1 and 851.7 of the Penal Code, to amend Sections 1825 and 3420 of the Public Utilities Code, to amend Section 17020.12 of, and to amend and renumber the heading of Article 26 (commencing with Section 18914) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Sections 10202, 10203, 10205, and 10206 of the Welfare and Institutions Code, to amend Section 1 of Chapter 115 of the Statutes of 2020, and to amend Section 26 of Chapter 264 of the Statutes of 2020, relating to the maintenance of the codes.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 938, Davies. 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 as recommended by the Legislative Counsel to the Legislature.

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

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

SECTION 1. Section 2837.103 of the Business and Professions Code is amended to read:

2837.103. (a) (1) Notwithstanding any other law, a nurse practitioner may perform the functions specified in subdivision (c) pursuant to that subdivision, in a setting or organization specified in paragraph (2) pursuant to that paragraph, if the nurse practitioner has successfully satisfied the following requirements:

(A) Passed a national nurse practitioner board certification examination and, if applicable, any supplemental examination developed pursuant to paragraph (4) of subdivision (a) of Section 2837.105.

(B) Holds a certification as a nurse practitioner from a national certifying body accredited by the National Commission for Certifying Agencies or the American Board of Nursing Specialties and recognized by the board.

(C) Provides documentation that educational training was consistent with standards established by the board pursuant to Section 2836 and any applicable regulations as they specifically relate to requirements for clinical practice hours. Online educational programs that do not include mandatory clinical hours shall not meet this requirement.

(D) Has completed a transition to practice in California of a minimum of three full-time equivalent years of practice or 4600 hours.

(2) A nurse practitioner who meets all of the requirements of paragraph (1) may practice, including, but not limited to, performing the functions authorized pursuant to subdivision (c), in one of the following settings or organizations in which one or more physicians and surgeons practice with the nurse practitioner without standardized procedures:

(A) A clinic, as defined in Section 1200 of the Health and Safety Code.

(B) A health facility, as defined in Section 1250 of the Health and Safety Code, except for the following:

(i) A correctional treatment center, as defined in paragraph (1) of subdivision (j) of Section 1250 of the Health and Safety Code.

(ii) A state hospital, as defined in Section 4100 of the Welfare and Institutions Code.

(C) A facility described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A medical group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services.

(E) A home health agency, as defined in Section 1727 of the Health and Safety Code.

(F) A hospice facility licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code.

(3) In health care agencies that have governing bodies, as defined in Division 5 of Title 22 of the California Code of Regulations, including, but not limited to, Sections 70701 and 70703 of Title 22 of the California Code of Regulations, the following apply:

(A) A nurse practitioner shall adhere to all applicable bylaws.

(B) A nurse practitioner shall be eligible to serve on medical staff and hospital committees.

(C) A nurse practitioner shall be eligible to attend meetings of the department to which the nurse practitioner is assigned. A nurse practitioner shall not vote at department, division, or other meetings unless the vote is regarding the determination of nurse practitioner privileges with the organization, peer review of nurse practitioner clinical practice, whether a licensee's employment is in the best interest of the communities served by a hospital pursuant to Section 2401, or the vote is otherwise allowed by the applicable bylaws.

(b) An entity described in subparagraphs (A) to (F), inclusive, of paragraph (2) of subdivision (a) shall not interfere with, control, or otherwise direct the professional judgment of a nurse practitioner functioning pursuant to this section in a manner prohibited by Section 2400 or any other law.

(c) In addition to any other practices authorized by law, a nurse practitioner who meets the requirements of paragraph (1) of subdivision (a) may perform the following functions without standardized procedures in accordance with their education and training:

(1) Conduct an advanced assessment.

(2) (A) Order, perform, and interpret diagnostic procedures.

(B) For radiologic procedures, a nurse practitioner can order diagnostic procedures and utilize the findings or results in treating the patient. A nurse practitioner may perform or interpret clinical laboratory procedures that they are permitted to perform under Section 1206 and under the federal Clinical Laboratory Improvement Act (CLIA).

(3) Establish primary and differential diagnoses.

(4) Prescribe, order, administer, dispense, procure, and furnish therapeutic measures, including, but not limited to, the following:

(A) Diagnose, prescribe, and institute therapy or referrals of patients to health care agencies, health care providers, and community resources.

(B) Prescribe, administer, dispense, and furnish pharmacological agents, including over-the-counter, legend, and controlled substances.

(C) Plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including, but not limited to, durable medical equipment, medical devices, nutrition, blood and blood products, and diagnostic and supportive services, including, but not limited to, home health care, hospice, and physical and occupational therapy.

(5) After performing a physical examination, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.

(6) Delegate tasks to a medical assistant pursuant to Sections 1206.5, 2069, 2070, and 2071, and Article 2 (commencing with Section 1366) of Chapter 3 of Division 13 of Title 16 of the California Code of Regulations.

(d) A nurse practitioner shall verbally inform all new patients in a language understandable to the patient that a nurse practitioner is not a physician and surgeon. For purposes of Spanish language speakers, the nurse practitioner shall use the standardized phrase "enfermera especializada."

(e) A nurse practitioner shall post a notice in a conspicuous location accessible to public view that the nurse practitioner is regulated by the Board of Registered Nursing. The notice shall include the board's telephone number and the internet website where the nurse practitioner's license may be checked and complaints against the nurse practitioner may be made.

(f) A nurse practitioner shall refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of a patient is beyond the scope of the education and training of the nurse practitioner.

(g) A nurse practitioner practicing under this section shall have professional liability insurance appropriate for the practice setting.

(h) Any health care setting operated by the Department of Corrections and Rehabilitation is exempt from this section.

SEC. 2. Section 17525 of the Business and Professions Code is amended to read:

17525. (a) It is unlawful for a person, with a bad faith intent, to register, traffic in, or use a domain or subdomain name that is identical or confusingly similar to, because of, among other things, misspelling of the domain or subdomain name, either of the following:

(1) The personal name of another living person or deceased personality, without regard to the goods or services of the parties.

(2) The name of any of the following used to sell or resell, or offer to sell or resell, goods:

(A) A specific professional or collegiate sports team, professional or collegiate sports league, theme or amusement park, or venue where concerts, sports, or other live entertainment events are held.

(B) A specific event, performance, or exhibition, including the name of a person, professional or collegiate team, performance, group, or entity scheduled to perform or appear at that event.

(b) This section does not apply in the case of a name registered as a domain name or subdomain name in either of the following circumstances:

(1) The personal name described in paragraph (1) of subdivision (a) is connected to a work of authorship, including, but not limited to, fictional or nonfictional entertainment, and dramatic, literary, audiovisual, or musical works.

(2) The person whose personal name is described in paragraph (1) of subdivision (a) or the authorized agent of an entity whose name is described by paragraph (2) of subdivision (a) consents to the registration, trafficking, or use of the name as a domain or subdomain name.

(c) A domain name registrar, a domain name registry, or any other domain name registration authority that takes any action described in subdivision (a) that affects a domain name shall not be liable to any person for that action, regardless of whether the domain name is finally determined to infringe or dilute a trademark or service mark.

(d) A party who has suffered injury in fact and has lost money or property as a result of a violation of this section may bring a civil action for recovery of actual, consequential, and punitive damages, if warranted, and shall be awarded reasonable attorney's fees if the action is resolved in that party's favor.

(e) For purposes of this section, "goods" includes tickets to a concert, sporting event, or other live entertainment event. "Goods" also includes clothing and memorabilia bearing the name or trademark of an entity described in paragraph (2) of subdivision (a).

(f) A person who registers, traffics in, or uses a domain or subdomain name in violation of paragraph (1) or (2) of subdivision (a) without the consent described in paragraph (2) of subdivision (b) is presumed to have done so with a bad faith intent. This presumption is a presumption affecting the burden of proof.

(g) The remedies provided by this section are cumulative and shall not be construed as restricting a remedy that is otherwise available, including, but not limited to, a remedy available under Chapter 2 (commencing with Section 14200) of Division 6, or Chapter 4 (commencing with Section 17000) of Part 2 of Division 7.

SEC. 3. Section 1179.04.5 of the Civil Code is amended and renumbered as Section 1179.04.5 of the Code of Civil Procedure to read:

1179.04.5. Notwithstanding Sections 1470, 1947, and 1950 of the Civil Code, or any other law, for the duration of any tenancy that existed during the covered time period, the landlord shall not do either of the following:

(a) Apply a security deposit to satisfy COVID-19 rental debt, unless the tenant has agreed, in writing, to allow the deposit to be so applied. This subdivision does not prohibit a landlord from applying a security deposit to satisfy COVID-19 rental debt after the tenancy ends, in accordance with Section 1950.5 of the Civil Code.

(b) Apply a monthly rental payment to any COVID-19 rental debt other than the prospective month's rent, unless the tenant has agreed, in writing, to allow the payment to be so applied.

SEC. 4. Section 1689.7 of the Civil Code is amended to read:

1689.7. (a) (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, in a home solicitation contract or offer, the buyer's agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, shall be signed by the buyer, and except as provided in paragraph (2), shall contain in immediate proximity to the space reserved for the buyer's signature, a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

(A) For a buyer who is a senior citizen: "You, the buyer, may cancel this transaction at any time prior to midnight of the fifth business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(B) For all other buyers: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(2) The statement required pursuant to this subdivision for a home solicitation contract or offer for the purchase of a personal emergency response unit, as defined in Section 1689.6, that is not installed with and as part of a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) that has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, is as follows: "You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(3) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, the statement required pursuant to this subdivision for the repair or restoration of residential premises damaged by a disaster pursuant to subdivision (c) of Section 1689.6 is as follows: "You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(4) (A) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that is subject to Section 7159 of the Business and Professions Code shall include in immediate proximity to the space reserved for the buyer's signature, the following statement in a size equal to at least 12-point boldface type, which shall be dated and signed by the buyer:

"Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) References to "three" and "third" in the statement set forth in subparagraph (A) shall be changed to "five" and "fifth," respectively, for a buyer who is a senior citizen.

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the name and address of the seller to which the notice is to be mailed, and (2) the date the buyer signed the agreement or offer to purchase.

(c) (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, or except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

(Date)

"You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, 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 seller/ _____ ,

at _____ /address of seller's place of business/ _____

not later than midnight of (Date).

I hereby cancel this transaction. _____ (Date) _____

_____ (Buyer's signature)

(2) The reference to "three" in the statement set forth in paragraph (1) shall be changed to "five" for a buyer who is a senior citizen.

(d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license

issued pursuant to the Alarm Company Act, shall be subject to the requirements of subdivision (c), and shall be accompanied by the "Notice of Cancellation" required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(e) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that is subject to Section 7159 of the Business and Professions Code shall include, in immediate proximity to the space reserved for the buyer's signature, the following statement in a size equal to at least 12-point boldface type, which shall be signed and dated by the buyer:

"Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(f) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of the buyer's right to cancel and the requirement that cancellation be in writing, at the time the home solicitation contract or offer is executed.

(g) Until the seller has complied with this section the buyer may cancel the home solicitation contract or offer.

(h) "Contract or sale" as used in subdivision (c) means "home solicitation contract or offer" as defined by Section 1689.5.

(i) The five-day right to cancel added by the act that added subparagraph (A) to paragraph (1) and subparagraph (B) to paragraph (4) of subdivision (a), and paragraph (2) to subdivision (c) applies to contracts, or offers to purchase conveyed, entered into, on or after January 1, 2021.

SEC. 5. Section 1788.102 of the Civil Code is amended to read:

1788.102. Except to the extent that this section is inconsistent with any provision of federal law or regulation, and then only to the extent of the inconsistency, a student loan servicer shall do all of the following:

(a) Post and process student loan payments in a timely manner pursuant to the servicer's established payment processing policies that shall be disclosed to and readily accessible by borrowers and credit student loan payments in a timely manner in accordance with the following:

(1) A payment received on or before 11:59 p.m. on the date on which that payment is due, in the amount, manner, and location indicated by the person engaged in student loan servicing, shall be credited as effective on the date on which the payment was received by the person engaged in student loan servicing in this state. A person engaged in student loan servicing in this state shall treat a payment received from the borrower on the borrower's due date as an "on-time" payment.

(2) If a payment is made by check, credit the payment on the date the check was received by the student loan servicer regardless of the date of processing. A borrower's online account shall reflect payments made within three business days of the date of payment unless payment is made by check and contains no information identifying to which account or loan the payment should be credited. In the event the student loan servicer receives a paper check with no information identifying to which account or loan the payment should be credited, the student loan servicer shall determine, within 10 business days, to which account and loan the payment should be credited. When the servicer determines to which account and loan the payment should be credited, the servicer shall credit the payment as of the date the payment was received by the servicer and update the borrower's online account within one business day.

(b) If a person engaged in servicing a student loan makes a material change in the mailing address, office, or procedures for handling borrower payments, and that change causes a material delay in the crediting of a borrower payment made during the

60-day period following the date on which that change took effect, the person engaged in servicing the student loan shall not impose on the borrower any negative consequences related to that material change, including negative credit reporting, lost eligibility for a borrower benefit, late fees, interest capitalization, or other financial injury.

(c) (1) Inquire of a borrower how to apply an overpayment to a student loan. A borrower's direction on how to apply an overpayment to a student loan shall be effective with respect to future overpayments during the term of a student loan until the borrower provides a different direction.

(2) (A) In the absence of a direction provided by a borrower pursuant to paragraph (1), allocate an overpayment on a student loan account in a manner that is in the best financial interest of a student loan borrower.

(B) As used in this paragraph, "best financial interest of a student loan borrower" means reducing the total cost of the student loan, including principal balance, interest, and fees.

(3) A student loan servicer shall be considered to meet the requirements of paragraph (2) if the servicer allocates the overpayment to the loan with the highest interest rate on the borrower's student loan account, unless the borrower specifies otherwise.

(d) (1) Except as provided in federal law or required by a student loan agreement, comply with a direction provided by a borrower as to how to allocate a partial payment to a student loan.

(2) In the absence of a direction provided by a borrower pursuant to paragraph (1) of this subdivision, allocate a partial payment in a manner that minimizes late fees and negative credit reporting.

(3) A student loan servicer shall be considered to have satisfied paragraph (2) if, when there are multiple loans on a borrower's student loan account at an equal stage of delinquency, the student loan servicer allocates partial payments to satisfy as many loans as possible on a borrower's student loan account.

(e) (1) If a student loan servicer imposes a fee on a borrower for a past due student loan payment, that fee shall be reasonable and proportional to the total costs incurred as a result of the late payment by a borrower, and shall not exceed 6 percent of any amount past due.

(2) A student loan servicer shall not impose a minimum late fee. For purposes of this paragraph, "minimum late fee" includes any fee that is not assessed as a percentage of any amount past due.

(f) Diligently oversee its service providers. For purposes of this subdivision, "diligently oversee its service providers" includes maintaining policies and procedures to oversee compliance by third-party service providers engaged in any aspect of student loan servicing. Student loan servicers have joint and several liability for the conduct of their service providers for any act or practice that violates this title.

(g) (1) Timely process its paperwork, consistent with existing federal requirements, including, but not limited to, ensuring that customer service personnel have received both of the following:

(A) Appropriate training about the handling of paperwork.

(B) Access to necessary information about forms and applications that are in process, have been approved, or have been denied.

(2) The requirements of this subdivision include ensuring that customer service personnel have access to applications for income-driven repayment plans and other forms required to access benefits and protections for federal student loans, as described in Section 1070 and following of Title 20 of the United States Code.

(h) Except as required by a student loan agreement, all records about a borrower's account shall be maintained for the period of time during which a person performs student loan servicing for a borrower's account and for a minimum of three years after the loan serviced has been paid in full, assigned to collection, or the servicing rights have been transferred.

(i) Treat a qualified request as if it were a qualified written request and comply with subdivision (t) with respect to that qualified request.

(j) Maintain policies and procedures permitting a borrower who is dissatisfied with the outcome of an initial qualified request to escalate the borrower's concern to a supervisor.

(k) (1) Protect borrowers from any negative consequences that are directly related to the issue identified in a borrower's qualified request or qualified written request until that request has been resolved. For purposes of this subdivision, "negative

consequences" include, but are not limited to, negative credit reporting, lost eligibility for a borrower benefit, late fees, interest capitalization, or other financial injury.

(2) Notwithstanding paragraph (1), after receipt of a qualified request or qualified written request related to a dispute on a borrower's payment on a student loan, a student loan servicer shall not, for 60 days, furnish information to a consumer reporting agency regarding a payment that is the subject of the qualified request or the qualified written request.

(l) Protect borrowers from any negative consequences stemming from a sale, assignment, transfer, system conversion, or payment made by the borrower to the original student loan servicer consistent with the original student loan servicer's policy. For purposes of this subdivision, "negative consequences" include, but are not limited to, any of the following:

(1) Negative credit reporting.

(2) The imposition of late fees not required by the promissory note.

(3) Loss of or denial of eligibility for any benefit or protection established under federal law or included in a loan contract.

(m) If the sale, assignment, or other transfer of the servicing of a student loan results in a change in the identity of the party to whom the borrower is required to send payments or direct any communications concerning the student loan, the student loan servicer shall notify the borrower in writing at least 15 days before the borrower is required to send a payment on the student loan of all of the following:

(1) The identity of the new student loan servicer and the number of the license, issued by the commissioner, of the new student loan servicer.

(2) The name and address of the new student loan servicer to whom subsequent payments or communications are required to be sent.

(3) The telephone numbers and internet websites of the new student loan servicer.

(4) The effective date of the sale, assignment, or transfer.

(5) The date on which the current student loan servicer will stop accepting payments on the borrower's student loan.

(6) The date on which the new student loan servicer will begin accepting payments on the borrower's student loan.

(n) Ensure all necessary information regarding a borrower, a borrower's account, and a borrower's student loan accompanies a loan when it transfers to a new student loan servicer within 45 calendar days of the effective date of the sale, assignment, or transfer. For purposes of this subdivision, "necessary information" shall include, at minimum, all of the following:

(1) A schedule of all transactions credited or debited to the student loan account.

(2) A copy of the promissory note for the student loan.

(3) Any notes created by the student loan servicer's personnel reflecting communications with the borrower about the student loan account.

(4) A report of the data fields relating to the borrower's student loan account created by the student loan servicer's electronic systems in connection with servicing practices.

(5) Copies or electronic records of any information or documents provided by the borrower to the student loan servicer.

(6) Usable data fields with information necessary to assess qualification for forgiveness, including public service loan forgiveness, if applicable.

(7) Any information necessary to compile a payment history.

(o) Provide specialized training for any customer service personnel that advises military borrowers about student loan repayment benefits and protections.

(p) Provide specialized training for any customer service personnel that advises borrowers working in public service about student loan repayment benefits and protections.

(q) Provide specialized training for any customer service personnel that advises older borrowers about risks specifically applicable to older borrowers to ensure that, once identified, older borrowers are informed about student loan repayment benefits and protections, including disability discharge programs for private and federal loans, if applicable, and, to the extent an older borrower serves as cosigner, about cosigner release provisions in private student loan contracts.

(r) Provide specialized training for any customer service personnel that advises borrowers with disabilities about student loan repayment benefits and protections, including disability discharge programs for private and federal loans. Under no circumstances shall a person engage in any unfair or deceptive practice toward any borrower with a disability or misrepresent or omit any material information in connection with the servicing of a student loan owed by a borrower with a disability. For purposes of this subdivision, "misrepresent or omit any material information" includes, but is not limited to, misrepresenting or omitting any of the following:

- (1) The availability of any program or protection specific to borrowers with disabilities or applicable to those borrowers.
- (2) The amount, nature, or terms of any fee or payment due or claimed to be due on a student loan.
- (3) The terms and conditions of the student loan agreement.
- (4) The borrower's obligations under the student loan.

(s) Respond within 10 business days to communications from the Student Loan Ombudsman, established pursuant to Chapter 4 (commencing with Section 1788.104), or within a shorter, reasonable time as the Student Loan Ombudsman may request in that person's communication.

(t) (1) Respond to a qualified written request by acknowledging receipt of the request within 10 business days and within 30 business days, provide information relating to the request and, if applicable, either the action the student loan servicer will take to correct the account or an explanation for the position that the borrower's account is correct.

- (2) The 30-day period described in paragraph (1) may be extended for not more than 15 days if, before the end of the 30-day period, the student loan servicer notifies the borrower of the extension and the reason for the delay in responding.

SEC. 6. Section 1788.105 of the Civil Code is amended to read:

1788.105. (a) The commissioner may monitor for risks to consumers in the provision of student loan servicing in this state, including developments in the market for those services, by compiling and analyzing data and other information based on any of the following considerations:

- (1) The likely risks and costs to consumers associated with using or repaying a student loan or with the servicing of a student loan.
- (2) The understanding by consumers of the risks of a student loan or the servicing of a student loan.
- (3) The legal protections applicable to the offering or provision of a student loan or the servicing of a student loan, including the extent to which the law is likely to adequately protect consumers.
- (4) The rates of growth in the offering or provision of a student loan or the servicing of that loan.
- (5) The extent, if any, to which the risks of a student loan or the servicing of a student loan disproportionately affect traditionally underserved consumers.
- (6) The type, number, and other pertinent characteristics of student loan servicers in this state.

(b) In conducting any monitoring or assessment authorized by this section, the commissioner may gather information regarding the organization, business conduct, markets, and activities of student loan servicers in this state, except if that student loan servicer is a national bank, as defined in Section 25b of Title 12 of the United States Code, and only to the extent that the requirements of this paragraph are preempted with respect to national banks pursuant to Section 25b and following of Title 12 of the United States Code. The commissioner may enter into contracts to perform the duties required in this section, as necessary.

(c) In order to gather information described in subdivision (b), the commissioner may do both of the following:

- (1) Gather and compile information from a variety of sources, including consumer complaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews with student loan servicers and service providers, and review of available databases.
- (2) Require persons engaged in student loan servicing and licensed or subject to the licensing requirements of the Student Loan Servicing Act (Division 12.5 (commencing with Section 28100) of the Financial Code) to file, under oath or otherwise, in the form and within a reasonable period of time as the commissioner may prescribe, annual or special reports, or answers in writing to specific questions, as necessary for the commissioner to fulfill the monitoring, assessment, and reporting responsibilities required in this title.

(d) (1) In addition to any other market monitoring activities deemed necessary by the commissioner, pursuant to subdivision (a), the department may gather and compile information from student loan servicers to assemble data that assesses the total size of the student loan market in this state, the servicing of loans owed by borrowers at risk of default, the servicing of private student loans owed by borrowers experiencing financial distress, and the servicing of federal student loans for borrowers who seek to repay their loans under an Income Driven Repayment Plan as described in Section 1070 et seq. of Title 20 of the United States Code.

(2) The commissioner may, on a quarterly basis, develop and publicize metrics based on data collected pursuant to this subdivision, and those metrics may identify each student loan servicer and publish relevant metrics related to performance of student loan servicing by each person. In executing the function described in this subdivision, the commissioner may meet and confer with the Student Loan Ombudsman established pursuant to Chapter 4.

(e) Notwithstanding subdivision (l) of Section 1788.100, for purposes of this chapter, "student loan servicer" includes a state or nonprofit private institution or organization having an agreement with the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)) in connection with its responsibilities as a guaranty agency engaged in default aversion.

(f) This chapter shall become operative on July 1, 2021.

(g) The operation of this chapter is contingent upon the enactment of an appropriation in the annual Budget Act for its purposes.

SEC. 7. Section 488.375 of the Code of Civil Procedure is amended to read:

488.375. (a) Except as provided by Section 488.385, to attach equipment of a going business in the possession or under the control of the defendant, the levying officer shall file with the office of the Secretary of State a notice of attachment, in the form prescribed by the Secretary of State, which shall contain all of the following:

- (1) The name and mailing address of the plaintiff.
- (2) The name and last known mailing address of the defendant.
- (3) The title of the court where the action is pending and the cause and number of the action.
- (4) A description of the specific property attached.
- (5) A statement that the plaintiff has acquired an attachment lien on the specified property of the defendant.

(b) Upon presentation of a notice of attachment under this section for filing, and tender of the filing fee to the office of the Secretary of State, the notice of attachment shall be filed, marked, and indexed in the same manner as a financing statement. The fee for filing in the office of the Secretary of State is the same as the fee for filing a financing statement in the standard form.

(c) Upon the request of any person, the Secretary of State shall issue a certificate showing whether there is on file in that office on the date and hour stated therein any notice of attachment filed against the equipment of a particular person named in the request. If a notice of attachment is on file, the certificate shall state the date and hour of filing of each such notice and any notice affecting any such notice of attachment and the name and address of the plaintiff. Upon request, the Secretary of State shall furnish a copy of any notice of attachment or notice affecting a notice of attachment. The certificate shall be issued as part of a combined certificate pursuant to Section 9528 of the Commercial Code, and the fee for the certificate and copies shall be in accordance with that section.

(d) The fee for filing, indexing, and furnishing filing data for a notice of extension of attachment is the same as the fee for a continuation statement under Section 9525 of the Commercial Code. The fee for filing, indexing, and furnishing filing data for a notice of release of attachment is the same as the fee for a statement of release under Section 9525 of the Commercial Code.

(e) If property subject to an attachment lien under this section becomes a fixture (as defined in paragraph (41) of subdivision (a) of Section 9102 of the Commercial Code), the attachment lien under this section is extinguished.

SEC. 8. Section 488.405 of the Code of Civil Procedure is amended to read:

488.405. (a) This section provides an alternative method of attaching farm products or inventory of a going business in the possession or under the control of the defendant, but this section does not apply to property described in Section 488.325. This section applies if the plaintiff instructs the levying officer to attach the farm products or inventory under this section.

(b) To attach under this section farm products or inventory of a going business in the possession or under the control of the defendant, the levying officer shall file a notice of attachment with the Secretary of State.

(c) Except as provided in subdivisions (d) and (e), the filing of the notice of attachment gives the plaintiff an attachment lien on all of the following:

- (1) The farm products or inventory described in the notice.
- (2) Identifiable cash proceeds (as that term is used in Section 9315 of the Commercial Code).
- (3) If permitted by the writ of attachment or court order, after-acquired property.

(d) The attachment lien created by the filing of the notice of attachment under this section does not extend to either of the following:

- (1) A vehicle or vessel required to be registered with the Department of Motor Vehicles or a mobilehome or commercial coach required to be registered pursuant to the Health and Safety Code.
- (2) The inventory of a retail merchant held for sale except to the extent that the inventory of the retail merchant consists of durable goods having a unit retail value of at least five hundred dollars (\$500). For the purposes of this paragraph, "retail merchant" does not include (A) a person whose sales for resale exceeded 75 percent in dollar volume of the person's total sales of all goods during the 12 months preceding the filing of the notice of attachment or (B) a cooperative association organized pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code (agricultural cooperative associations) or Part 3 (commencing with Section 13200) of Division 3 of Title 1 of the Corporations Code (Fish Marketing Act).

(e) If property subject to an attachment lien under this section becomes a fixture (as defined in paragraph (41) of subdivision (a) of Section 9102 of the Commercial Code), the attachment lien under this section is extinguished.

(f) The notice of attachment shall be in the form prescribed by the Secretary of State and shall contain all of the following:

- (1) The name and mailing address of the plaintiff.
- (2) The name and last known mailing address of the defendant.
- (3) The title of the court where the action is pending and the cause and number of the action.
- (4) A description of the farm products and inventory attached.
- (5) A statement that the plaintiff has acquired an attachment lien on the described property and on identifiable cash proceeds (as that term is used in Section 9315 of the Commercial Code) and, if permitted by the writ of attachment or court order, on after-acquired property.

(g) Upon presentation of a notice of attachment under this section for filing and tender of the filing fee to the office of the Secretary of State, the notice of attachment shall be filed, marked, and indexed in the same manner as a financing statement. The fee for filing in the office of the Secretary of State is the same as the fee for filing a financing statement in the standard form.

(h) Upon the request of any person, the Secretary of State shall issue a certificate showing whether there is on file in that office on the date and hour stated therein any notice of attachment filed against the farm products or inventory of a particular person named in the request. If a notice of attachment is on file, the certificate shall state the date and hour of filing of each such notice of attachment and any notice affecting any such notice of attachment and the name and address of the plaintiff. Upon request, the Secretary of State shall furnish a copy of any notice of attachment or notice affecting a notice of attachment. The certificate shall be issued as part of a combined certificate pursuant to Section 9528 of the Commercial Code, and the fee for the certificate and copies shall be in accordance with that section.

(i) The fee for filing, indexing, and furnishing filing data for a notice of extension of attachment is the same as the fee for a continuation statement under Section 9525 of the Commercial Code. The fee for filing, indexing, and furnishing filing data for a notice of release of attachment is the same as the fee for a statement of release under Section 9525 of the Commercial Code.

SEC. 9. Section 492.010 of the Code of Civil Procedure is amended to read:

492.010. Notwithstanding subdivision (a) of Section 483.010, an attachment may be issued in any action for the recovery of money brought against any of the following:

- (a) A natural person who does not reside in this state.
- (b) A foreign corporation not qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(c) A foreign partnership which has not filed a designation pursuant to Section 15800 of the Corporations Code.

SEC. 10. Section 703.140 of the Code of Civil Procedure is amended to read:

703.140. (a) In a case under Title 11 of the United States Code, all of the exemptions provided by this chapter, including the homestead exemption, other than the provisions of subdivision (b) are applicable regardless of whether there is a money judgment against the debtor or whether a money judgment is being enforced by execution sale or any other procedure, but the exemptions provided by subdivision (b) may be elected in lieu of all other exemptions provided by this chapter, as follows:

(1) If spouses are joined in the petition, they jointly may elect to utilize the applicable exemption provisions of this chapter other than the provisions of subdivision (b), or to utilize the applicable exemptions set forth in subdivision (b), but not both.

(2) If the petition is filed individually, and not jointly, for a spouse, the exemptions provided by this chapter other than the provisions of subdivision (b) are applicable, except that, if both of the spouses effectively waive in writing the right to claim, during the period the case commenced by filing the petition is pending, the exemptions provided by the applicable exemption provisions of this chapter, other than subdivision (b), in any case commenced by filing a petition for either of them under Title 11 of the United States Code, then they may elect to instead utilize the applicable exemptions set forth in subdivision (b).

(3) If the petition is filed for an unmarried person, that person may elect to utilize the applicable exemption provisions of this chapter other than subdivision (b), or to utilize the applicable exemptions set forth in subdivision (b), but not both.

(b) The following exemptions may be elected as provided in subdivision (a):

(1) The debtor's aggregate interest, not to exceed twenty-nine thousand two hundred seventy-five dollars (\$29,275) in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence.

(2) The debtor's interest, not to exceed five thousand eight hundred fifty dollars (\$5,850) in value, in one or more motor vehicles.

(3) The debtor's interest, not to exceed seven hundred twenty-five dollars (\$725) in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(4) The debtor's aggregate interest, not to exceed one thousand seven hundred fifty dollars (\$1,750) in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest, not to exceed one thousand five hundred fifty dollars (\$1,550) in value, plus any unused amount of the exemption provided under paragraph (1), in any property.

(6) The debtor's aggregate interest, not to exceed eight thousand seven hundred twenty-five dollars (\$8,725) in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(8) The debtor's aggregate interest, not to exceed fifteen thousand six hundred fifty dollars (\$15,650) in value, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(9) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(10) The debtor's right to receive any of the following:

(A) A social security benefit, unemployment compensation, or a local public assistance benefit.

(B) A veterans' benefit.

(C) A disability, illness, or unemployment benefit.

(D) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(E) A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless all of the following apply:

(i) That plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose.

(ii) The payment is on account of age or length of service.

(iii) That plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 408A of the Internal Revenue Code of 1986.

(11) The debtor's right to receive, or property that is traceable to, any of the following:

(A) An award under a crime victim's reparation law.

(B) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(C) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(D) A payment, not to exceed twenty-nine thousand two hundred seventy-five dollars (\$29,275) on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent.

(E) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(12) Money held in an account owned by the judgment debtor and established pursuant to the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code), subject to the following limits:

(A) The amount exempted for contributions to an account during the 365-day period prior to the date of filing of the debtor's petition for bankruptcy, in the aggregate during this period, shall not exceed the amount of the annual gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended, in effect at the time of the contribution.

(B) The amount exempted for contributions to an account during the period commencing 730 days prior to and ending 366 days prior to the date of filing of the debtor's petition for bankruptcy, in the aggregate during this period, shall not exceed the amount of the annual gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended, in effect at the time of the contribution.

(C) For the purposes of this paragraph, "account" includes all accounts having the same beneficiary.

SEC. 11. Section 704.060 of the Code of Civil Procedure is amended to read:

704.060. (a) Tools, implements, instruments, materials, uniforms, furnishings, books, equipment, one commercial motor vehicle, one vessel, and other personal property are exempt to the extent that the aggregate equity therein does not exceed:

(1) Eight thousand seven hundred twenty-five dollars (\$8,725), if reasonably necessary to and actually used by the judgment debtor in the exercise of the trade, business, or profession by which the judgment debtor earns a livelihood.

(2) Eight thousand seven hundred twenty-five dollars (\$8,725), if reasonably necessary to and actually used by the spouse of the judgment debtor in the exercise of the trade, business, or profession by which the spouse earns a livelihood.

(3) Twice the amount of the exemption provided in paragraph (1), if reasonably necessary to and actually used by the judgment debtor and by the spouse of the judgment debtor in the exercise of the same trade, business, or profession by which both earn a livelihood. In the case covered by this paragraph, the exemptions provided in paragraphs (1) and (2) are not available.

(b) If property described in subdivision (a) is sold at an execution sale, or if it has been lost, damaged, or destroyed, the proceeds of the execution sale or of insurance or other indemnification are exempt for a period of 90 days after the proceeds are actually received by the judgment debtor or the judgment debtor's spouse. The amount exempt under this subdivision is the amount specified in subdivision (a) that applies to the particular case less the aggregate equity of any other property to which the exemption provided by subdivision (a) for the particular case has been applied.

(c) Notwithstanding subdivision (a), a motor vehicle is not exempt under subdivision (a) if there is a motor vehicle exempt under Section 704.010 which is reasonably adequate for use in the trade, business, or profession for which the exemption is claimed under this section.

(d) Notwithstanding subdivisions (a) and (b):

(1) The amount of the exemption for a commercial motor vehicle under paragraph (1) or (2) of subdivision (a) is limited to four thousand eight hundred fifty dollars (\$4,850).

(2) The amount of the exemption for a commercial motor vehicle under paragraph (3) of subdivision (a) is limited to twice the amount of the exemption provided in paragraph (1) of this subdivision.

SEC. 12. Section 708.310 of the Code of Civil Procedure is amended to read:

708.310. If a money judgment is rendered against a partner or member but not against the partnership or limited liability company, the judgment debtor's interest in the partnership or limited liability company may be applied toward the satisfaction of the judgment by an order charging the judgment debtor's interest pursuant to Section 15907.03, 16504, or 17705.03 of the Corporations Code.

SEC. 13. Section 917.7 of the Code of Civil Procedure is amended to read:

917.7. The perfecting of an appeal shall not stay proceedings as to those provisions of a judgment or order which award, change, or otherwise affect the custody, including the right of visitation, of a minor child in any civil action, in an action filed under the Juvenile Court Law, or in a special proceeding, or the provisions of a judgment or order for the temporary exclusion of a party from a dwelling, as provided in the Family Code. However, the trial court may in its discretion stay execution of these provisions pending review on appeal or for any other period or periods that it may deem appropriate. Further, in the absence of a writ or order of a reviewing court providing otherwise, the provisions of the judgment or order allowing, or eliminating restrictions against, removal of the minor child from the state are stayed by operation of law for a period of seven calendar days from the entry of the judgment or order by a juvenile court in a dependency hearing, or for a period of 30 calendar days from the entry of judgment or order by any other trial court. The periods during which these provisions allowing, or eliminating restrictions against, removal of the minor child from the state are stayed, are subject to further stays as ordered by the trial court or by the juvenile court pursuant to this section. An order directing the return of a child to a sister state or country, including any order effectuating that return, made in a proceeding brought pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code), the Parental Kidnapping Prevention Act of 1980 (28 U.S.C. Sec. 1738A), or the Hague Convention on the Civil Aspects of International Child Abduction (implemented pursuant to the International Child Abduction Remedies Act (22 U.S.C. Secs. 9001-9011)) is not a judgment or order which awards, changes, or otherwise affects the custody of a minor child within the meaning of this section, and therefore is not subject to the automatic stay provisions of this section.

SEC. 14. Section 1010.6 of the Code of Civil Procedure is amended to read:

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

(1) For purposes of this section:

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

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

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

(D) "Electronic filing" means the electronic transmission to a court of a document presented for filing in electronic form. For purposes of this section, this definition of electronic filing concerns the activity of filing and does not include the processing and review of the document and its entry into the court's records, which are necessary for a document to be officially filed.

(2) (A) (i) For cases filed on or before December 31, 2018, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is not authorized unless a party or other person has agreed to accept electronic service in that specific action or the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d).

(ii) For cases filed on or after January 1, 2019, if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is authorized if a party or other person has expressly

consented to receive electronic service in that specific action, the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d), or the document is served electronically pursuant to the procedures specified in subdivision (e). Express consent to electronic service may be accomplished either by (I) serving a notice on all the parties and filing the notice with the court, or (II) manifesting affirmative consent through electronic means with the court or the court's electronic filing service provider, and concurrently providing the party's electronic address with that consent for the purpose of receiving electronic service. The act of electronic filing shall not be construed as express consent.

(B) If a document is required to be served by certified or registered mail, electronic service of the document is not authorized.

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

(4) (A) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of that document is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent.

(B) Any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic means by two court days, but the extension does not apply to extend the time for filing any of the following:

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

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

(iii) A notice of appeal.

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

(5) Any document that is served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed served on that court day. Any document that is served electronically on a noncourt day shall be deemed served on the next court day.

(6) A party or other person who has provided express consent to accept service electronically may withdraw consent at any time by completing and filing with the court the appropriate Judicial Council form. The Judicial Council shall create the form by January 1, 2019.

(7) Consent, or the withdrawal of consent, to receive electronic service may only be completed by a party or other person entitled to service or that person's attorney.

(8) Confidential or sealed records shall be electronically served through encrypted methods to ensure that the documents are not improperly disclosed.

(b) A trial court may adopt local rules permitting electronic filing of documents, subject to rules adopted by the Judicial Council pursuant to subdivision (f) and the following conditions:

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

(2) (A) When a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied:

(i) The filer is the signer.

(ii) The person has signed the document pursuant to the procedure set forth in the California Rules of Court.

(B) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied:

(i) The person has signed a printed form of the document before, or on the same day as, the date of filing. The attorney or other person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or other person filing the document shall maintain the printed form of the document bearing the original

signature until final disposition of the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed.

(ii) The person has signed the document using a computer or other technology pursuant to the procedure set forth in a rule of court adopted by the Judicial Council by January 1, 2019.

(3) Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a noncourt day shall be deemed filed on the next court day.

(4) (A) Whichever of a court, an electronic filing service provider, or an electronic filing manager is the first to receive a document submitted for electronic filing shall promptly send a confirmation of receipt of the document indicating the date and time of receipt to the party or person who submitted the document.

(B) If a document received by the court under subparagraph (A) complies with filing requirements and all required filing fees have been paid, the court shall promptly send confirmation that the document has been filed to the party or person who submitted the document.

(C) If the clerk of the court does not file a document received by the court under subparagraph (A) because the document does not comply with applicable filing requirements or the required filing fee has not been paid, the court shall promptly send notice of the rejection of the document for filing to the party or person who submitted the document. The notice of rejection shall state the reasons that the document was rejected for filing and include the date the clerk of the court sent the notice.

(D) If the court utilizes an electronic filing service provider or electronic filing manager to send the notice of rejection described in subparagraph (C), the electronic filing service provider or electronic filing manager shall promptly send the notice of rejection to the party or person who submitted the document. A notice of rejection sent pursuant to this subparagraph shall include the date the electronic filing service provider or electronic filing manager sent the notice.

(E) If the clerk of the court does not file a complaint or cross-complaint because the complaint or cross-complaint does not comply with applicable filing requirements or the required filing fee has not been paid, any statute of limitations applicable to the causes of action alleged in the complaint or cross-complaint shall be tolled for the period beginning on the date on which the court received the document and as shown on the confirmation of receipt described in subparagraph (A), through the later of either the date on which the clerk of the court sent the notice of rejection described in subparagraph (C) or the date on which the electronic filing service provider or electronic filing manager sent the notice of rejection as described in subparagraph (D), plus one additional day if the complaint or cross-complaint is subsequently submitted in a form that corrects the errors which caused the document to be rejected. The party filing the complaint or cross-complaint shall not make any change to the complaint or cross-complaint other than those required to correct the errors which caused the document to be rejected.

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

(6) The court shall permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of the filing fee, as part of the process involving the electronic filing of a document. The court shall consider and determine the application in accordance with Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and shall not require the party or attorney to submit any documentation other than that set forth in Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code. The court, an electronic filing service provider, or an electronic filing manager shall waive any fees charged to a party if the party has been granted a waiver of court fees pursuant to Section 68631. The electronic filing manager or electronic filing service provider shall not seek payment from the court of any fee waived by the court. This section does not require the court to waive a filing fee that is not otherwise waivable.

(7) If a party electronically files a filing that is exempt from the payment of filing fees under any other law, including a filing described in Section 212 of the Welfare and Institutions Code or Section 6103.9, subdivision (b) of Section 70617, or Section

70672 of the Government Code, the party shall not be required to pay any court fees associated with the electronic filing. An electronic filing service provider or an electronic filing manager shall not seek payment of these fees from the court.

(8) A fee, if any, charged by the court, an electronic filing service provider, or an electronic filing manager to process a payment for filing fees and other court fees shall not exceed the costs incurred in processing the payment.

(9) The court shall not charge fees for electronic filing and service of documents that are more than the court's actual cost of electronic filing and service of the documents.

(c) If a trial court adopts rules conforming to subdivision (b), it may provide by order, subject to the requirements and conditions stated in paragraphs (2) through (4), inclusive, of subdivision (d), and the rules adopted by the Judicial Council under subdivision (g), that all parties to an action file and serve documents electronically in a class action, a consolidated action, a group of actions, a coordinated action, or an action that is deemed complex under Judicial Council rules, provided that the trial court's order does not cause undue hardship or significant prejudice to any party in the action.

(d) A trial court may, by local rule, require electronic filing and service in civil actions, subject to the requirements and conditions stated in subdivision (b), the rules adopted by the Judicial Council under subdivision (g), and the following conditions:

(1) The court shall have the ability to maintain the official court record in electronic format for all cases where electronic filing is required.

(2) The court and the parties shall have access to more than one electronic filing service provider capable of electronically filing documents with the court or to electronic filing access directly through the court. Any fees charged by an electronic filing service provider shall be reasonable. An electronic filing manager or an electronic filing service provider shall waive any fees charged if the court deems a waiver appropriate, including in instances where a party has received a fee waiver.

(3) The court shall have a procedure for the filing of nonelectronic documents in order to prevent the program from causing undue hardship or significant prejudice to any party in an action, including, but not limited to, unrepresented parties. The Judicial Council shall make a form available to allow a party to seek an exemption from mandatory electronic filing and service on the grounds provided in this paragraph.

(4) Unrepresented persons are exempt from mandatory electronic filing and service.

(5) Until January 1, 2021, a local child support agency, as defined in subdivision (h) of Section 17000 of the Family Code, is exempt from a trial court's mandatory electronic filing and service requirements, unless the Department of Child Support Services and the local child support agency determine it has the capacity and functionality to comply with the trial court's mandatory electronic filing and service requirements.

(e) (1) A party represented by counsel, who has appeared in an action or proceeding, shall accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. Before first serving a represented party electronically, the serving party shall confirm by telephone or email the appropriate electronic service address for counsel being served.

(2) A party represented by counsel shall, upon the request of any party who has appeared in an action or proceeding and who provides an electronic service address, electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission.

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

(g) The Judicial Council shall adopt uniform rules to permit the mandatory electronic filing and service of documents for specified civil actions in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, access to public records, unrepresented parties, parties with fee waivers, hardships, reasonable exceptions to electronic filing, and rules relating to the integrity of electronic service. These rules shall conform to the conditions set forth in this section, as amended from time to time.

(h) (1) Any system for the electronic filing and service of documents, including any information technology applications, internet websites and web-based applications, used by an electronic service provider or any other vendor or contractor that provides an electronic filing and service system to a trial court, regardless of the case management system used by the trial court, shall satisfy both of the following requirements:

(A) The system shall be accessible to individuals with disabilities, including parties and attorneys with disabilities, in accordance with Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, the regulations

implementing that act set forth in Part 1194 of Title 36 of the Code of Federal Regulations and Appendices A, C, and D of that part, and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(B) The system shall comply with the Web Content Accessibility Guidelines 2.0 at a Level AA success criteria.

(2) Commencing on June 27, 2017, the vendor or contractor shall provide an accommodation to an individual with a disability in accordance with subparagraph (D) of paragraph (3).

(3) A trial court that contracts with an entity for the provision of a system for electronic filing and service of documents shall require the entity, in the trial court's contract with the entity, to do all of the following:

(A) Test and verify that the entity's system complies with this subdivision and provide the verification to the Judicial Council no later than June 30, 2019.

(B) Respond to, and resolve, any complaints regarding the accessibility of the system that are brought to the attention of the entity.

(C) Designate a lead individual to whom any complaints concerning accessibility may be addressed and post the individual's name and contact information on the entity's internet website.

(D) Provide to an individual with a disability, upon request, an accommodation to enable the individual to file and serve documents electronically at no additional charge for any time period that the entity is not compliant with paragraph (1). Exempting an individual with a disability from mandatory electronic filing and service of documents shall not be deemed an accommodation unless the person chooses that as an accommodation. The vendor or contractor shall clearly state in its internet website that an individual with a disability may request an accommodation and the process for submitting a request for an accommodation.

(4) A trial court that provides electronic filing and service of documents directly to the public shall comply with this subdivision to the same extent as a vendor or contractor that provides electronic filing and services to a trial court.

(5) (A) The Judicial Council shall submit four reports to the appropriate committees of the Legislature relating to the trial courts that have implemented a system of electronic filing and service of documents. The first report is due by June 30, 2018; the second report is due by December 31, 2019; the third report is due by December 31, 2021; and the fourth report is due by December 31, 2023.

(B) The Judicial Council's reports shall include all of the following information:

(i) The name of each court that has implemented a system of electronic filing and service of documents.

(ii) A description of the system of electronic filing and service.

(iii) The name of the entity or entities providing the system.

(iv) A statement as to whether the system complies with this subdivision and, if the system is not fully compliant, a description of the actions that have been taken to make the system compliant.

(6) An entity that contracts with a trial court to provide a system for electronic filing and service of documents shall cooperate with the Judicial Council by providing all information, and by permitting all testing, necessary for the Judicial Council to prepare its reports to the Legislature in a complete and timely manner.

SEC. 15. Section 2031.060 of the Code of Civil Procedure is amended to read:

2031.060. (a) When an inspection, copying, testing, or sampling of documents, tangible things, places, or electronically stored information has been demanded, the party to whom the demand has been directed, and any other party or affected person, may promptly move for a protective order. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party or other person from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That all or some of the items or categories of items in the demand need not be produced or made available at all.

(2) That the time specified in Section 2031.260 to respond to the set of demands, or to a particular item or category in the set, be extended.

(3) That the place of production be other than that specified in the demand.

(4) That the inspection, copying, testing, or sampling be made only on specified terms and conditions.

(5) That a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way.

(6) That the items produced be sealed and thereafter opened only on order of the court.

(c) The party or affected person who seeks a protective order regarding the production, inspection, copying, testing, or sampling of electronically stored information on the basis that the information is from a source that is not reasonably accessible because of undue burden or expense shall bear the burden of demonstrating that the information is from a source that is not reasonably accessible because of undue burden or expense.

(d) If the party or affected person from whom discovery of electronically stored information is sought establishes that the information is from a source that is not reasonably accessible because of undue burden or expense, the court may nonetheless order discovery if the demanding party shows good cause, subject to any limitations imposed under subdivision (f).

(e) If the court finds good cause for the production of electronically stored information from a source that is not reasonably accessible, the court may set conditions for the discovery of the electronically stored information, including allocation of the expense of discovery.

(f) The court shall limit the frequency or extent of discovery of electronically stored information, even from a source that is reasonably accessible, if the court determines that any of the following conditions exist:

(1) It is possible to obtain the information from some other source that is more convenient, less burdensome, or less expensive.

(2) The discovery sought is unreasonably cumulative or duplicative.

(3) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought.

(4) The likely burden or expense of the proposed discovery outweighs the likely benefit, taking into account the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues.

(g) If the motion for a protective order is denied in whole or in part, the court may order that the party to whom the demand was directed provide or permit the discovery against which protection was sought on terms and conditions that are just.

(h) Except as provided in subdivision (i), the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(i) (1) Notwithstanding subdivision (h), absent exceptional circumstances, the court shall not impose sanctions on a party or any attorney of a party for failure to provide electronically stored information that has been lost, damaged, altered, or overwritten as the result of the routine, good faith operation of an electronic information system.

(2) This subdivision shall not be construed to alter any obligation to preserve discoverable information.

SEC. 16. Section 8209 of the Education Code is amended to read:

8209. (a) If a state of emergency is declared by the Governor, the Superintendent may waive any requirements of this code or regulations adopted pursuant to this code relating to childcare and development programs operated pursuant to this chapter only to the extent that enforcement of the regulations or requirements would directly impede disaster relief and recovery efforts or would disrupt the current level of service in childcare and development programs.

(b) If a state of emergency is declared by the Governor, the Superintendent may waive any requirements of this code or regulations adopted pursuant to this code relating to child nutrition programs in childcare and development programs operated pursuant to this chapter only to the extent that enforcement of the regulations or requirements would directly impede disaster relief and recovery efforts or would disrupt the current level of service in childcare and development programs.

(c) A waiver granted pursuant to subdivision (a) or (b) shall not exceed 45 calendar days.

(d) For purposes of this section, "state of emergency" includes, but is not limited to, fire, flood, earthquake, or a period of civil unrest.

(e) If a request for a waiver pursuant to subdivision (a) or (b) is for a childcare and development program or child nutrition program that receives federal funds and the waiver may be inconsistent with the state plan or any federal law or regulations governing the program, the Superintendent shall seek and obtain approval of the waiver from the appropriate federal agency before granting the waiver.

(f) (1) From July 1, 2020, to June 30, 2021, inclusive, due to the ongoing impacts of childcare and development facility closures and low child attendance due to the COVID-19 pandemic and related public health directives, the Superintendent shall reimburse a contracting agency for a California state preschool program pursuant to Article 7 (commencing with Section 8235), a general childcare and development program pursuant to Article 8 (commencing with Section 8240), a family childcare home education network pursuant to Article 8.5 (commencing with Section 8245), a migrant childcare and development program pursuant to Article 6 (commencing with Section 8230), or childcare and development services for children with special needs pursuant to Article 9 (commencing with Section 8250) that meets any of the following requirements:

(A) The program operated by the contracting agency opens by September 8, 2020, or within 21 calendar days from the start date of the contracting agency's 2020–21 program calendar approved by the department, whichever is sooner, and remains open and offering services through the 2020–21 program year.

(B) The program operated by the contracting agency is closed by local or state public health order or guidance due to the COVID-19 pandemic.

(C) (i) The program operates on the campus of a local educational agency that is closed by local or state public health guidance or order and the local educational agency has required the early learning and care program to close.

(ii) To ensure continuity of care and access to services during the COVID-19 pandemic, the governing board or body of the local educational agency requiring a closure pursuant to clause (i) shall discuss in a public hearing and prepare a plan for safely reopening early learning and care programs as soon as safely possible, but no later than when local education agency campuses open for in-person instruction.

(2) Reimbursement pursuant to paragraph (1) shall be 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less, pursuant to guidance released by the Superintendent.

(3) A childcare program specified in paragraph (1) that is physically closed pursuant to subparagraph (B) or (C) of paragraph (1) due to the COVID-19 pandemic, but funded to be operational, shall provide distance learning services as specified by the Superintendent. A contractor specified in paragraph (1) shall submit a distance learning plan to the department pursuant to guidance from the Superintendent.

SEC. 17. Section 17463.7 of the Education Code is amended to read:

17463.7. (a) Notwithstanding any other law, a school district may deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, purchased with nonstate funds, into the general fund of the school district and may use the proceeds for any one-time general fund purpose. If the purchase of the property was made using the proceeds of a local general obligation bond or revenue derived from developer fees, the amount of the proceeds of the transaction that may be deposited into the general fund of the school district may not exceed the percentage computed by the difference between the purchase price of the property and the proceeds from the transaction, divided by the amount of the proceeds of the transaction. For purposes of this section, proceeds of the transaction means either of the following, as appropriate:

(1) The amount realized from the sale of property after reasonable expenses related to the sale.

(2) For a transaction that does not result in a lump-sum payment of the proceeds of the transaction, the proceeds of the transaction shall be calculated as the net present value of the future cashflow generated by the transaction.

(b) The State Allocation Board shall reduce an apportionment of hardship assistance awarded to the particular school district pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10, except an apportionment of hardship assistance awarded pursuant to paragraph (2) of subdivision (b) of Section 17075.10, by an amount equal to the amount of the sale of surplus real property used for a one-time expenditure of the school district pursuant to this section.

(c) Before a school district exercises the authority granted pursuant to this section, the governing board of the school district shall first submit to the State Allocation Board documents certifying both of the following:

(1) The sale of real property pursuant to this section does not violate the provisions of a local bond act.

(2) The real property is not suitable to meet projected school construction needs for the next 10 years.

(d) Before the school district exercises the authority granted pursuant to this section, the governing board of the school district shall adopt a plan at a public meeting for expending one-time resources pursuant to this section. The plan shall identify the source and the intended use of the surplus property proceeds and describe the reasons why the expenditure will not result in ongoing fiscal obligations for the school district.

(e) (1) Except for the sale or lease of surplus real property that has previously operated, or was constructed to be operated, as an early childhood education facility or a school for elementary and secondary instruction, the governing board of a school district shall not be required to appoint a school district advisory committee pursuant to Article 1.5 (commencing with Section 17387).

(2) It is the intent of the Legislature to allow a school district to meet the requirements to offer surplus properties set forth in the Education and Government Codes by making an offer simultaneously to all applicable entities.

(f) The Office of Public School Construction shall submit an interim and a final report to the State Allocation Board and the budget, education policy, and fiscal committees of the Legislature that identifies the school districts that have exercised the authority granted by this section, the amount of proceeds involved, and the purposes for which those proceeds were used. The interim report shall be submitted by June 1, 2022, and the final report shall be submitted by January 1, 2026.

(g) For any transaction for the sale or lease of surplus property a school district initiates pursuant to this section before June 30, 2024, the proceeds from the sale or lease transaction that are received after June 30, 2024, shall be considered proceeds that can be deposited in accordance with this section.

(h) Subdivisions (a) to (e), inclusive, shall become inoperative on July 1, 2024, subdivision (f) shall become inoperative on January 15, 2026, and this section as of January 1, 2027, is repealed.

SEC. 18. Section 43505 of the Education Code is amended to read:

43505. (a) (1) For purposes of calculating apportionments for the 2020–21 fiscal year and for any other calculations that would be based on average daily attendance in the 2020–21 school year, for all newly operational charter schools that are authorized by the governing board of a school district or county board of education on or before June 30, 2020, or approved by the state board at its July 8 and 9, 2020, meeting and that are beginning instruction in the 2020–21 school year, the department shall use the certified enrollment of that charter school as of Information Day, October 7, 2020, based on data reported in the California Longitudinal Pupil Achievement Data System pursuant to Chapter 10 (commencing with Section 60900) of Part 33 of Division 4, reduced by either the statewide average rate of absence for elementary school districts for kindergarten and grades 1 to 8, inclusive, or the statewide average rate of absence for high school districts for grades 9 to 12, inclusive, as applicable, as calculated by the department for the prior fiscal year with the resultant figures and rates rounded to the nearest tenth.

(2) A newly operational charter school eligible for funding pursuant to paragraph (1) shall receive advance funding pursuant to subdivision (a) of Section 47652 for the months of July 2020 to January 2021, inclusive. Monthly payments for the remainder of the 2020–21 fiscal year shall be drawn pursuant to Sections 14041, 14041.5, and 14041.6, consistent with the certifications made pursuant to Sections 41332 and 41335.

(b) (1) (A) For purposes of calculating apportionments for the 2020–21 fiscal year and for any other calculations that would be based on average daily attendance in the 2020–21 school year, a continuing local educational agency shall be eligible for an apportionment calculation pursuant to paragraph (2) if it is a charter school, school district, or county office of education with growth in overall pupil enrollment from its actual 2019–20 level to its projected 2020–21 level, as documented in its most recent 2020–21 budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or in its adopted 2019–20 second interim report. If a local educational agency does not document or project enrollment growth in its most recent 2020–21 budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or in its adopted 2019–20 second interim report, it may use overall pupil average daily attendance growth from its actual 2019–20 level to its projected 2020–21 level, as documented in its most recent 2020–21 budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or in its adopted 2019–20 second interim report to establish eligibility for an apportionment calculation pursuant to paragraph (2).

(B) A local educational agency is not eligible for an apportionment calculation pursuant to paragraph (2) if its most recent 2020–21 budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or its adopted 2019–20 second interim report does not explicitly show growth in overall pupil enrollment or average daily attendance from its actual 2019–20 level to its projected 2020–21 level.

(2) (A) For a local educational agency that is eligible pursuant to paragraph (1) and meets the requirements of paragraph (3), the department shall use the lesser of clause (i) or (ii) for purposes of calculating apportionments for the 2020–21 fiscal year. Apportionments calculated pursuant to this paragraph shall exclude average daily attendance attributed to a local educational agency pursuant to paragraph (4) of subdivision (b) of Section 43502.

(i) The certified enrollment of the local educational agency as of Information Day, October 7, 2020, based on data reported in the California Longitudinal Pupil Achievement Data System pursuant to Chapter 10 (commencing with Section 60900) of Part 33 of Division 4, reduced by either the statewide average rate of absence for elementary school districts for kindergarten and grades 1 to 8, inclusive, or the statewide average rate of absence for high school districts for grades 9 to 12, inclusive, as applicable, as calculated by the department for the prior fiscal year with the resultant figures and rates rounded to the nearest tenth.

(ii) (I) If enrollment growth is used to establish eligibility pursuant to paragraph (1), the 2020–21 enrollment of the local educational agency projected in its most recent 2020–21 budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or in its adopted 2019–20 second interim report, reduced by either the statewide average rate of absence for elementary school districts for kindergarten and grades 1 to 8, inclusive, or the statewide average rate of absence for high school districts for grades 9 to 12, inclusive, as applicable, as calculated by the department for the prior fiscal year with the resultant figures and rates rounded to the nearest tenth.

(II) If average daily attendance growth is used to establish eligibility pursuant to paragraph (1), the 2020–21 average daily attendance of the local educational agency projected in its most recent 2020–21 budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or in its adopted 2019–20 second interim report.

(B) An apportionment calculated for a local educational agency pursuant to this paragraph shall not be less than the apportionment that would be calculated pursuant to subdivision (b) of Section 43502.

(3) A local educational agency that chooses to be funded pursuant to this subdivision shall provide all of the following to the department by November 6, 2020:

(A) A request for the department to calculate apportionments for the 2020–21 fiscal year pursuant to this subdivision.

(B) (i) A copy of the local educational agency's adopted 2020–21 budget or 2019–20 second interim report and any supporting documentation, including governing board or body minutes, identifying growth in overall pupil average daily attendance or enrollment from its actual 2019–20 level to its projected 2020–21 level. If the 2020–21 budget is provided, it shall have been adopted by the governing board or body of the local educational agency on or before June 30, 2020, and shall be the most recently adopted budget on or before June 30, 2020.

(ii) A local educational agency that does not submit the requested supporting documentation demonstrating projected growth in enrollment or average daily attendance shall be funded pursuant to subdivision (b) of Section 43502 for the 2020–21 fiscal year.

(C) The superintendent or equivalent officer and the president of the governing board or body of the local educational agency shall both attest under penalty of perjury that documentation submitted pursuant to subparagraphs (A) and (B) is true and correct and is the most recent budget adopted by the governing board or body of the local educational agency on or before June 30, 2020, or is the 2019–20 second interim report adopted by the governing board or body of the local educational agency.

(4) On or before October 2, 2020, the department shall post on its internet website an application for continuing local educational agencies to request an apportionment calculation in the 2020–21 fiscal year pursuant to this subdivision.

(5) Funding provided pursuant to this subdivision shall be reflected in the certifications made by the Superintendent pursuant to Section 41332 and 41335 and monthly payments pursuant to Sections 14041, 14041.5, and 14041.6, commencing with the payment made in February 2021.

(c) (1) A nonclassroom-based charter school described in Section 47612.5 as of the 2019–20 second principal apportionment certification shall not be eligible for an apportionment calculation pursuant to subdivision (b).

(2) For purposes of calculating apportionments for the 2020–21 fiscal year and for any other calculations that would be based on average daily attendance in the 2020–21 school year, for a nonclassroom-based charter school described in Section 47612.5 as of the second principal apportionment certification for the 2019–20 fiscal year, the department shall use the nonclassroom-based charter school's average daily attendance in the 2019–20 fiscal year pursuant to subdivision (b) of Section 43502.

(3) For the 2020–21 school year, a nonclassroom-based charter school described in Section 47612.5 as of the second principal apportionment certification for the 2019–20 fiscal year shall adopt a learning continuity and attendance plan pursuant to Section 43509, and shall not be required to adopt a local control and accountability plan pursuant to Section 47606.5.

(4) A nonclassroom-based charter school described in Section 47612.5 as of the second principal apportionment certification for the 2019–20 fiscal year shall continue to comply with all of the statutory requirements in Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of Division 4 and the implementing regulations for that article.

(d) This section applies only for the calculation of apportionments for the 2020–21 fiscal year.

SEC. 19. Section 47612.7 of the Education Code is amended to read:

47612.7. (a) Notwithstanding any other law and except as provided in subdivision (b), from January 1, 2020, to January 1, 2022, inclusive, the approval of a petition for the establishment of a new charter school, as defined in paragraph (2) of subdivision (e) of Section 47612.5, is prohibited.

(b) Subdivision (a) does not apply to a nonclassroom-based charter school that was granted approval of its petition and providing educational services to pupils before October 1, 2019, under either of the following circumstances:

(1) If a charter school is required to submit a petition to the governing board of a school district or county board of education in an adjacent county in which its existing resource center is located in order to comply with Section 47605.1, as amended by Chapter 487 of the Statutes of 2019 (Assembly Bill 1507 of the 2019–20 Regular Session), or to retain current program offerings or enrollment.

(2) If a charter school is required to submit a petition to a school district or county board of education in which a resource center is located in order to comply with the court decision in *Anderson Union High School District v. Shasta Secondary Home School* (2016) 4 Cal.App.5th 262, or other relevant court ruling, and the petition is necessary to retain current program offerings or enrollment.

(3) A charter school authorized by a different chartering authority pursuant to paragraphs (1) and (2) shall be regarded by the department as a continuing charter school for all purposes to the extent it does not conflict with federal law. In order to prevent any potential conflict with federal law, this paragraph does not apply to covered programs as identified in Section 8101(11) of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 7801) to the extent the affected charter school is the restructured portion of a divided charter school pursuant to Section 47654.

(c) Notwithstanding Section 33050 or any other law, the state board shall not waive the restrictions described in this section.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 20. Section 47653 of the Education Code is amended to read:

47653. (a) A charter school required to be regarded as a continuing charter school by the department pursuant to subparagraph (E) of paragraph (5) of subdivision (a) of Section 47605, subparagraph (B) of paragraph (5) of subdivision (c) of Section 47605.1, subdivision (d) of Section 47605.9, or paragraph (3) of subdivision (b) of Section 47612.7 shall notify the department by May 15 before the fiscal year in which the charter school is to be regarded as a continuing charter school by the department, in a format to be established by the Superintendent. The Superintendent may require the charter school to submit attendance records or other documents necessary to verify that instruction had been provided at the site to substantiate that the charter school meets the requirements to be regarded as a continuing charter school by the department.

(b) Failure of an eligible charter school or its chartering authority to provide notice and substantiation to the department in accordance with subdivision (a) relieves the department of any obligation to regard the charter school as a continuing charter school.

(c) A charter school petition authorized by a different chartering authority pursuant to subparagraph (A) of paragraph (5) of subdivision (a) of Section 47605, subparagraph (A) of paragraph (5) of subdivision (c) of Section 47605.1, subdivision (c) of Section 47605.9, or subdivision (b) of Section 47612.7 shall be effective before the date instruction begins for the current fiscal year.

(d) A charter school regarded as a continuing charter school in accordance with this section shall commence instruction within the first three months of the fiscal year beginning July 1 of the year the petition is effective pursuant to subdivision (c). A charter school shall not be eligible for an apportionment for any fiscal year in which instruction commenced after September 30 of that fiscal year.

(e) A charter school regarded as a continuing charter school by the department shall not be eligible for funding as a new charter school pursuant to subdivision (a) of Section 47652.

(f) The requirements of this section shall not be waived by the state board pursuant to Section 33050 or any other law.

SEC. 21. Section 52064 of the Education Code is amended to read:

52064. (a) On or before March 31, 2014, the state board shall adopt a template for a local control and accountability plan and an annual update to the local control and accountability plan for the following purposes:

- (1) For use by school districts to meet the requirements of Sections 52060 to 52063, inclusive.
- (2) For use by county superintendents of schools to meet the requirements of Sections 52066 to 52069, inclusive.
- (3) For use by charter schools to meet the requirements of Section 47606.5.

(b) On or before January 31, 2020, the template adopted by the state board shall require the inclusion of all of the following information:

(1) A description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605, subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, subdivision (d) of Section 52060, or subdivision (d) of Section 52066, as applicable, and for any additional local priorities identified by the governing board of the school district, the county board of education, or in the charter school petition. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in subdivision (a) of Section 52052.

(2) A description of the specific actions the school district, county office of education, or charter school will take during each year of the local control and accountability plan to achieve the goals identified in paragraph (1). The specific actions shall not supersede the provisions of existing local collective bargaining agreements, if any, within the jurisdiction of the school district, county office of education, or charter school.

(3) One or more summary tables listing and describing the budgeted expenditures for the ensuing fiscal year implementing each specific action included in the local control and accountability plan, including expenditures for the ensuing fiscal year that will serve unduplicated pupils, as defined in Section 42238.02, and pupils redesignated as fluent English proficient. The summary table or tables shall include both of the following:

(A) The total overall expenditures for all specific actions included in the local control and accountability plan, broken down by personnel and nonpersonnel expenditures.

(B) The subtotals of expenditures for each specific action included in the local control and accountability plan broken down into the following categories:

- (i) Funds apportioned under the local control funding formula pursuant to Section 42238.02.
- (ii) All other state funds.
- (iii) All local funds.
- (iv) All federal funds.

(4) One or more summary tables listing and describing the specific actions and budgeted expenditures in paragraph (3) that contribute to the demonstration that the school district, county office of education, or charter school will increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07, grouped as follows:

(A) Specific actions and budgeted expenditures provided to all pupils on a districtwide, countywide, or charterwide basis.

(B) Specific actions and budgeted expenditures that are targeted only to one or more unduplicated pupil subgroups. For these specific actions, the description shall specify the unduplicated pupil subgroup or subgroups that are targeted by each specific action and, if not provided at all schools, the school or schools where the specific action is provided.

(C) Only for school districts and county offices of education that operate more than one schoolsite, specific actions and budgeted expenditures provided to all pupils on a schoolwide basis, but only at schools serving certain grade spans or only at one or more schools. For these specific actions, the description shall specify the school or schools at which the specific action is provided.

(5) An estimate of the funds to be apportioned in the ensuing fiscal year on the basis of the number and concentration of unduplicated pupils and calculation of the percent the school district, county office of education, or charter school will increase

or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07.

(6) A demonstration that the school district, county office of education, or charter school will increase or improve services for unduplicated pupils in the ensuing fiscal year in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils, consistent with regulations adopted by the state board pursuant to Section 42238.07.

(7) A review of the progress toward the goals included in the existing local control and accountability plan, a review of any changes in the applicability of the goals, an assessment of the effectiveness of the specific actions described in the existing local control and accountability plan toward achieving the goals, a description of changes to the specific actions and related expenditures the school district, county office of education, or charter school will make as a result of the review and assessment, and an update on progress implementing the specific actions in the current fiscal year, including estimated actual expenditures for the specific actions.

(8) A plan summary that includes general information about the school district, county office of education, or charter school and highlights of the local control and accountability plan and annual update to the local control and accountability plan, including reflections on annual performance on the California School Dashboard authorized in Section 52064.5 and other local data.

(9) A summary of the stakeholder engagement process and how stakeholder engagement influenced the development of the adopted local control and accountability plan and annual update to the local control and accountability plan.

(c) If possible, the templates identified in paragraph (2) of subdivision (a) for use by county superintendents of schools shall allow a county superintendent of schools to develop a single local control and accountability plan that would also satisfy the requirements of Section 48926.

(d) (1) The template for the local control and accountability plan and annual update to the local control and accountability plan shall, to the greatest extent practicable, use language that is understandable and accessible to parents. The state board shall include instructions for school districts, county offices of education, and charter schools to complete the local control and accountability plan and annual update to the local control and accountability plan consistent with the requirements of this section. The state board may include more technical language in the instructions.

(2) Except as provided in paragraph (3), the state board shall not require school districts, county offices of education, or charter schools to provide any information in addition to the information required pursuant to subdivision (b).

(3) The state board may require the inclusion of additional information in the template in order to meet requirements of federal law.

(e) (1) The process of developing and annually updating the local control and accountability plan should support school districts, county offices of education, and charter schools in comprehensive strategic planning, accountability, and improvement across the state priorities and any locally identified priorities through meaningful engagement with local stakeholders.

(2) In developing the template for the local control and accountability plan and annual update to the local control and accountability plan, the state board shall ensure that school districts, county offices of education, and charter schools track and report their progress annually on all state priorities, including the applicable metrics specified within each state priority and, for charter schools, in accordance with Section 47606.5.

(3) The instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that school districts, county offices of education, and charter schools should prioritize the focus of the goals, specific actions, and related expenditures included within the local control and accountability plan and annual update to the local control and accountability plan within one or more state priorities. The instructions shall further specify that school districts, county offices of education, and charter schools should consider their performance on the state and local indicators, including their locally collected and reported data for the local indicators, that are included in the California School Dashboard authorized in Section 52064.5 in determining whether and how to prioritize the goals, specific actions, and related expenditures included within the local control and accountability plan and annual update to the local control and accountability plan.

(4) The instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that school districts, county offices of education, and charter schools that have a numerically significant English learner pupil subgroup shall include specific actions in the local control and accountability plan related to, at a minimum, the language acquisition programs, as defined in Section 306, provided to pupils and professional development activities specific to English learners.

(5) On or before January 31, 2022, the instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that school districts, county offices of education, and charter schools that meet the criteria to receive technical assistance pursuant to Section 47607, 47607.2, 52071, or 52071.5, as applicable, based on the performance of the same pupil

subgroup or subgroups for three or more consecutive years shall include a goal in the local control and accountability plan focused on improving the performance of the pupil subgroup or subgroups.

(6) (A) On or before January 31, 2022, the instructions developed by the state board pursuant to paragraph (1) of subdivision (d) shall specify that, for any school district or county office of education with a school that meets the criteria described in subparagraph (B), the school district or county office of education shall include a goal in the local control and accountability plan focused on addressing the disparities in performance at the school or schools compared to the school district or county office of education as a whole.

(B) The requirement described in subparagraph (A) applies for any local educational agency with two or more schools if, for two consecutive years, a school receives the two lowest performance levels on all but one of the state indicators for which the school receives performance levels on the California School Dashboard pursuant to subdivision (d) of Section 52064.5 and the performance of the local educational agency for all pupils is at least one performance level higher on all of those indicators.

(f) (1) Except as provided in subdivision (g), the state board shall adopt the template pursuant 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). The state board may adopt emergency regulations for purposes of implementing this section. The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(2) Notwithstanding paragraph (1), the state board may adopt or revise the template in accordance with the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). When adopting the template pursuant to the requirements of the Bagley-Keene Open Meeting Act, the state board shall present the template at a regular meeting and may only take action to adopt the template at a subsequent regular meeting. This paragraph shall become inoperative on January 31, 2019.

(g) Notwithstanding subdivision (f), revisions of the template for the local control and accountability plan and annual update to the local control and accountability plan necessary to implement Chapter 32 of the Statutes of 2018 (Assembly Bill 1808 of the 2017-18 Regular Session), Chapter 426 of the Statutes of 2018 (Assembly Bill 1840 of the 2017-18 Regular Session), or legislation passed during the 2019–20 Regular Session 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). The state board may make necessary revisions to the template in accordance with the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(h) Revisions to a template shall be approved by the state board by January 31 before the fiscal year during which the template is to be used by a school district, county superintendent of schools, or charter school.

(i) In developing the template, the state board shall take steps to minimize duplication of effort at the local level to the greatest extent possible. The adoption of a template or evaluation rubric by the state board shall not create a requirement for a governing board of a school district, a county board of education, or a governing body of a charter school to submit a local control and accountability plan to the state board, unless otherwise required by federal law. The Superintendent shall not require a local control and accountability plan to be submitted by a governing board of a school district or the governing body of a charter school to the state board. The state board may adopt a template or evaluation rubric that would authorize a school district or a charter school to submit to the state board only the sections of the local control and accountability plan required by federal law.

(j) Notwithstanding any other law, the templates developed by the state board pursuant to this section, as it read on June 30, 2018, shall continue in effect until the state board adopts a new template pursuant to subdivision (b) on or before January 31, 2020, except that the state board may adopt revisions to those templates pursuant to subdivision (g) that are necessary to implement Assembly Bill 1808 of the 2017–18 Regular Session or meet federal requirements.

SEC. 22. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with this section, as required by Section 1414(d) of Title 20 of the United States Code, and that includes all of the following:

(1) A statement of the individual's present levels of academic achievement and functional performance, including all of the following:

(A) The manner in which the disability of the individual affects their involvement and progress in the general education curriculum.

(B) For preschool children, as appropriate, the manner in which the disability affects their participation in appropriate activities.

(C) For individuals with exceptional needs who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

(2) A statement of measurable annual goals, including academic and functional goals, designed to do both of the following:

(A) Meet the needs of the individual that result from the disability of the individual to enable the pupil to be involved in and make progress in the general education curriculum.

(B) Meet each of the other educational needs of the pupil that result from the disability of the individual.

(3) A description of the manner in which the progress of the pupil toward meeting the annual goals described in paragraph (2) will be measured and when periodic reports on the progress the pupil is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided to enable the pupil to do all of the following:

(A) To advance appropriately toward attaining the annual goals.

(B) To be involved in and make progress in the general education curriculum in accordance with paragraph (1) and to participate in extracurricular and other nonacademic activities.

(C) To be educated and participate with other individuals with exceptional needs and nondisabled pupils in the activities described in this subdivision.

(5) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in the regular class and in the activities described in subparagraph (C) of paragraph (4).

(6) (A) A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and districtwide assessments consistent with Section 1412(a)(16)(A) of Title 20 of the United States Code.

(B) If the individualized education program team determines that the pupil shall take an alternate assessment instead of a particular state or districtwide assessment of pupil achievement, a statement of both of the following:

(i) The reason why the pupil cannot participate in the regular assessment.

(ii) The reason why the particular alternate assessment selected is appropriate for the pupil.

(7) The projected date for the beginning of the services and modifications described in paragraph (4), and the anticipated frequency, location, and duration of those services and modifications.

(8) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, both of the following shall be included:

(A) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.

(B) The transition services, as defined in Section 56345.1, including courses of study, needed to assist the pupil in reaching those goals.

(9) (A) A description of the means by which the individualized education program will be provided under emergency conditions, as described in Section 46392, in which instruction or services, or both, cannot be provided to the pupil either at the school or in person for more than 10 school days. The description shall include all of the following:

(i) Special education and related services.

(ii) Supplementary aids and services.

(iii) Transition services, as defined in Section 56345.1.

(iv) Extended school year services pursuant to Section 300.106 of Title 34 of the Code of Federal Regulations.

(B) Subparagraph (A) applies, on or after the operative date of this paragraph, to the development of an initial individualized education program or the next regularly scheduled revision of an individualized education program that has not already met the requirements of subparagraph (A).

(C) Public health orders shall be taken into account in implementing subparagraph (A).

(b) If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.

(2) For individuals whose native language is a language other than English, linguistically appropriate goals, objectives, programs, and services.

(3) Pursuant to Section 300.106 of Title 34 of the Code of Federal Regulations, extended school year services shall be included in the individualized education program and provided to the pupil if the individualized education program team of the pupil determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the pupil.

(4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including both of the following:

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs, that the local educational agency is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the individualized education program of the pupil.

(d) Consistent with Section 56000.5 and Section 1414(d)(3)(B)(iv) of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of the services that constitute an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent with "Deaf Students Education Services Policy Guidance" (57 Fed. Reg. 49274 (October 1992)), including all of the following:

(1) The pupil's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.

(2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities, which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.

(3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil's primary language mode and language consistent with existing law regarding teacher training requirements.

(4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(5) In accordance with Section 300.113 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

(6) Subject to paragraph (7), each public agency, pursuant to Section 300.113(b) of Title 34 of the Code of Federal Regulations, shall ensure that external components of surgically implanted medical devices are functioning properly.

(7) For a child with a surgically implanted medical device who is receiving special education and a service under Section 56363, a public agency is not responsible for the postsurgical maintenance, programming, or replacement of the medical device that has been surgically implanted, or of an external component of the surgically implanted medical device.

(e) State moneys appropriated to districts or local educational agencies may not be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (d), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local educational agency as follows:

(1) The costs of those activities shall be funded from existing programs and funding sources.

(2) Those activities shall be supported by the resources otherwise made available to those programs.

(3) Those activities shall be consistent with Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved. This section does not remove the discretionary authority of the local educational agency in regard to inservice activities.

(g) Beginning not later than one year before the pupil reaches the age of 18 years, a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years pursuant to Section 56041.5.

(h) The individualized education program team is not required to include information under one component of a pupil's individualized education program that is already contained under another component of the individualized education program.

(i) This section does not require that additional information, beyond that explicitly required by Section 1414 of Title 20 of the United States Code and this part, be included in the individualized education program of a pupil.

SEC. 23. Section 56836.06 of the Education Code is amended to read:

56836.06. (a) For purposes of this article, the following terms or phrases have the following meanings, unless the context clearly requires otherwise:

(1) "Average daily attendance reported for the special education local plan area" means the total of the following:

(A) The total number of units of average daily attendance reported for the second principal apportionment pursuant to Section 41601 for all pupils enrolled in the district or districts that are a part of the special education local plan area.

(B) The total number of units of average daily attendance reported pursuant to subdivisions (a) and (b) of Section 41601 for all pupils enrolled in schools operated by the county office or offices that comprise the special education local plan area, or for those county offices that are a part of more than one special education local plan area, that portion of the average daily attendance of pupils enrolled in the schools operated by the county office that are under the jurisdiction of the special education local plan area.

(2) For purposes of computing apportionments pursuant to this chapter for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area, the term "average daily attendance" means the total number of units of average daily attendance reported for the second principal apportionment pursuant to subdivisions (a) and (b) of Section 41601 for all pupils enrolled in districts within the County of Los Angeles and all schools operated by the Los Angeles County Office of Education and the districts within the County of Los Angeles.

(3) "Special education local plan area" includes the school district or districts and county office or offices of education comprising the special education local plan area.

(4) "The fiscal year in which equalization among special education local plan areas has been achieved" means the first fiscal year in which each special education local plan area is funded at or above the statewide target amount per unit of average daily attendance, as computed pursuant to Section 56836.11.

(5) For a charter school deemed a local educational agency for purposes of special education, an amount equal to the amount computed pursuant to Section 56836.08 for the special education local plan area in which the charter school is included shall be apportioned by the department pursuant to the local allocation plan developed pursuant to subdivision (i) of Section 56195.7 or 56836.05, or both.

(b) This section shall become inoperative on July 1, 2020.

SEC. 24. Section 56836.142 of the Education Code is amended to read:

56836.142. (a) For purposes of this article, the following terms and phrases have the following meanings:

(1) "Average daily attendance reported for a special education local plan area" means the total of the following:

(A) The total number of units of average daily attendance reported for the second principal apportionment pursuant to Section 41601 for all pupils enrolled in the district or districts that are a part of the special education local plan area.

(B) The total number of units of average daily attendance reported pursuant to subdivisions (a) and (b) of Section 41601 for all pupils enrolled in schools operated by the county office or offices that comprise the special education local plan area, or for those county offices that are a part of more than one special education local plan area, that portion of the average daily attendance of pupils enrolled in the schools operated by the county office that are under the jurisdiction of the special education local plan area.

(2) For purposes of computing apportionments pursuant to this chapter for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area, the term "average daily attendance" means the total number of units of average daily attendance reported for the second principal apportionment pursuant to subdivisions (a) and (b) of Section 41601 for all pupils enrolled in districts within the County of Los Angeles and all schools operated by the Los Angeles County Office of Education and the districts within the County of Los Angeles.

(3) "Special education local plan area" includes the school district or districts, county office or offices of education, and charter schools comprising the special education local plan area.

(b) (1) For purposes of this article, the inflation factor shall be the percentage change in the annual average value of the Implicit Price Deflator for the State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.

(2) The inflation factor shall be determined pursuant to this subdivision unless otherwise specified in the annual Budget Act.

SEC. 25. Section 2700 of the Elections Code is amended to read:

2700. (a) The Secretary of State shall establish a Native American Voting Accessibility Advisory Committee. The Secretary of State shall consult with the committee to consider the committee's recommendations related to improving the accessibility of elections for Native American voters. The Secretary of State may implement the committee's recommendations as appropriate.

(b) The committee shall consist of the Secretary of State, the Secretary of State's designees, and additional members appointed by the Secretary of State. Each appointee shall have demonstrated experience with voting rights or be a county elections official.

(c) The committee shall serve in an advisory capacity to the Secretary of State and shall do all of the following:

(1) Establish guidelines for reaching as many Native American voters as practical.

(2) Make recommendations for improving the availability and accessibility of election materials, including, but not limited to, state voter information guides, county voter information guides, and vote-by-mail ballots, and their delivery in print or alternative formats to Native American voters.

(3) Make recommendations for the distribution of public service announcements identifying the availability of election materials for Native American voters with at least 45 days before any federal, state, and local election.

(4) Promote to Native American voters the Secretary of State's toll-free voter registration telephone line for citizens needing voter registration information.

(5) Make recommendations for providing Native American voters with information regarding voter registration and voting processes, and voting rights.

(6) Make recommendations to improve the recruitment of Native American poll workers.

(7) Establish subcommittees to further the scope and purposes of the committee as they relate to improving voter services and access for Native American voters.

(8) Make recommendations for providing information and services to Native American voters regarding language assistance.

(9) Promote the use of plain language and alternative formats for election materials distributed to Native American voters.

(10) Make recommendations for materials to train poll workers on issues related to serving Native American voters.

(d) A member shall not receive compensation, but each member shall be reimbursed for the member's reasonable and necessary expenses in connection with service on the committee.

SEC. 26. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in clause (iii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 27. Section 3118 of the Family Code is amended to read:

3118. (a) In any contested proceeding involving child custody or visitation rights, where the court has appointed a child custody evaluator or has referred a case for a full or partial court-connected evaluation, investigation, or assessment, and the court determines that there is a serious allegation of child sexual abuse, the court shall require an evaluation, investigation, or assessment pursuant to this section. When the court has determined that there is a serious allegation of child sexual abuse, any child custody evaluation, investigation, or assessment conducted subsequent to that determination shall be considered by the court only if the evaluation, investigation, or assessment is conducted in accordance with the minimum requirements set forth in this section in determining custody or visitation rights, except as specified in paragraph (1). For purposes of this section, a serious allegation of child sexual abuse means an allegation of child sexual abuse, as defined in Section 11165.1 of the Penal Code, that is based in whole or in part on statements made by the child to law enforcement, a child welfare services agency investigator, any person required by statute to report suspected child abuse, or any other court-appointed personnel, or that is supported by substantial independent corroboration as provided for in subparagraph (B) of paragraph (2) of subdivision (a) of Section 3011. When an allegation of child abuse arises in any other circumstances in any proceeding involving child custody or visitation rights, the court may require an evaluator or investigator to conduct an evaluation, investigation, or assessment pursuant to this section. The order appointing a child custody evaluator or investigator pursuant to this section shall provide that the evaluator or investigator have access to all juvenile court records pertaining to the child who is the subject of the evaluation, investigation, or assessment. The order shall also provide that any juvenile court records or information gained from those records remain confidential and shall only be released as specified in Section 3111.

(1) This section does not apply to any emergency court-ordered partial investigation that is conducted for the purpose of assisting the court in determining what immediate temporary orders may be necessary to protect and meet the immediate needs of a child. This section does apply when the emergency is resolved and the court is considering permanent child custody or visitation orders.

(2) This section does not prohibit a court from considering evidence relevant to determining the safety and protection needs of the child.

(3) Any evaluation, investigation, or assessment conducted pursuant to this section shall be conducted by an evaluator or investigator who meets the qualifications set forth in Section 3110.5.

(b) The evaluator or investigator shall, at a minimum, do all of the following:

(1) Consult with the agency providing child welfare services and law enforcement regarding the allegations of child sexual abuse, and obtain recommendations from these professionals regarding the child's safety and the child's need for protection.

(2) Review and summarize the child welfare services agency file. No document contained in the child welfare services agency file may be photocopied, but a summary of the information in the file, including statements made by the children and the parents, and the recommendations made or anticipated to be made by the child welfare services agency to the juvenile court, may be recorded by the evaluator or investigator, except for the identity of the reporting party. The evaluator's or investigator's notes summarizing the child welfare services agency information shall be stored in a file separate from the evaluator's or investigator's file and may only be released to either party under order of the court.

(3) Obtain from a law enforcement investigator all available information obtained from criminal background checks of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(4) Review the results of a multidisciplinary child interview team (hereafter MDIT) interview if available, or if not, or if the evaluator or investigator believes the MDIT interview is inadequate for purposes of the evaluation, investigation, or

assessment, interview the child or request an MDIT interview, and shall wherever possible avoid repeated interviews of the child.

(5) Request a forensic medical examination of the child from the appropriate agency, or include in the report required by paragraph (6) a written statement explaining why the examination is not needed.

(6) File a confidential written report with the clerk of the court in which the custody hearing will be conducted and which shall be served on the parties or their attorneys at least 10 days prior to the hearing. On and after January 1, 2021, this report shall be made on the form adopted pursuant to subdivision (i). This report may not be made available other than as provided in this subdivision. This report shall address the safety of the child and shall include, but not be limited to, the following:

(A) Documentation of material interviews, including any MDIT interview of the child or the evaluator or investigator, written documentation of interviews with both parents by the evaluator or investigator, and interviews with other witnesses who provided relevant information.

(B) A summary of any law enforcement investigator's investigation, including information obtained from the criminal background check of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(C) Relevant background material, including, but not limited to, a summary of a written report from any therapist treating the child for suspected child sexual abuse, excluding any communication subject to Section 1014 of the Evidence Code, reports from other professionals, and the results of any forensic medical examination and any other medical examination or treatment that could help establish or disprove whether the child has been the victim of sexual abuse.

(D) The written recommendations of the evaluator or investigator regarding the therapeutic needs of the child and how to ensure the safety of the child.

(E) A summary of the following information: whether the child and the child's parents are or have been the subject of a child abuse investigation and the disposition of that investigation; the name, location, and telephone number of the children's services worker; the status of the investigation and the recommendations made or anticipated to be made regarding the child's safety; and any dependency court orders or findings that might have a bearing on the custody dispute.

(F) Any information regarding the presence of domestic violence or substance abuse in the family that has been obtained from a child protective agency in accordance with paragraphs (1) and (2), a law enforcement agency, medical personnel or records, prior or currently treating therapists, excluding any communication subject to Section 1014 of the Evidence Code, or from interviews conducted or reviewed for this evaluation, investigation, or assessment.

(G) Which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence.

(H) Any other information the evaluator or investigator believes would be helpful to the court in determining what is in the best interests of the child.

(c) If the evaluator or investigator obtains information as part of a family court mediation, that information shall be maintained in the family court file, which is not subject to subpoena by either party. If, however, the members of the family are the subject of an ongoing child welfare services investigation, or the evaluator or investigator has made a child welfare services referral, the evaluator or investigator shall so inform the family law judicial officer in writing and this information shall become part of the family law file. This subdivision may not be construed to authorize or require a mediator to disclose any information not otherwise authorized or required by law to be disclosed.

(d) In accordance with subdivision (d) of Section 11167 of the Penal Code, the evaluator or investigator may not disclose any information regarding the identity of any person making a report of suspected child abuse. This section is not intended to limit any disclosure of information by any agency that is otherwise required by law or court order.

(e) The evaluation, investigation, or assessment standards set forth in this section represent minimum requirements of evaluation and the court shall order further evaluation beyond these minimum requirements when necessary to determine the safety needs of the child.

(f) If the court orders an evaluation, investigation, or assessment pursuant to this section, the court shall consider whether the best interests of the child require that a temporary order be issued that limits visitation with the parent against whom the allegations have been made to situations in which a third person specified by the court is present or whether visitation will be suspended or denied in accordance with Section 3011.

(g) An evaluation, investigation, or assessment pursuant to this section shall be suspended if a petition is filed to declare the child a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and all information gathered by the evaluator or investigator shall be made available to the juvenile court.

(h) This section shall not be construed to authorize a court to issue any orders in a proceeding pursuant to this division regarding custody or visitation with respect to a minor child who is the subject of a dependency hearing in juvenile court or to otherwise supersede Section 302 of the Welfare and Institutions Code.

(i) On or before January 1, 2021, the Judicial Council shall adopt a mandatory form that shall be used for all evaluations, investigations, or assessments conducted pursuant to this section. The form shall provide a standardized template for all information necessary to provide a full and complete analysis of the allegations raised in the proceeding.

SEC. 28. Section 7630 of the Family Code is amended to read:

7630. (a) A child, the child's natural mother, a person presumed to be the child's parent under subdivision (a), (b), or (c) of Section 7611, a person seeking to be adjudicated as a parent or donor under Section 7613, an adoption agency to whom the child has been relinquished, or a prospective adoptive parent of the child may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the parent and child relationship presumed under subdivision (a), (b), or (c) of Section 7611, or established pursuant to Section 7613.

(2) For the purpose of declaring the nonexistence of the parent and child relationship presumed under subdivision (a), (b), or (c) of Section 7611 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, parentage of the child by another person may be determined in the same action, if that person has been made a party.

(3) At any time for the purpose of declaring the nonexistence of the parent and child relationship of a donor under Section 7613.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the parent and child relationship presumed under subdivision (d) or (e) of Section 7611.

(c) Except as to cases coming within Chapter 1 (commencing with Section 7540) of Part 2 or when paragraph (2) of subdivision (a) applies, an action to determine parentage may be brought by the child, a personal representative of the child, the Department of Child Support Services, a presumed parent or the personal representative or a parent of that presumed parent if that parent has died or is a minor, or, when the natural mother is the only presumed parent or an action under Section 300 of the Welfare and Institutions Code or adoption is pending, a man alleged or claiming to be the father or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) (1) If a proceeding has been filed under Chapter 2 (commencing with Section 7820) of Part 4, an action under subdivision (a) or (b) shall be consolidated with that proceeding. The parental rights of the presumed parent shall be determined as set forth in Sections 7820 to 7829, inclusive.

(2) If a proceeding pursuant to Section 7662 has been filed under Chapter 5 (commencing with Section 7660), an action under subdivision (c) shall be consolidated with that proceeding. The parental rights of the alleged father shall be determined as set forth in Section 7664.

(3) The consolidated action under paragraph (1) or (2) shall be heard in the court in which the proceeding under Section 7662 or Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless the court finds, by clear and convincing evidence, that transferring the action to the other court poses a substantial hardship to the petitioner. Mere inconvenience does not constitute a sufficient basis for a finding of substantial hardship. If the court determines there is a substantial hardship, the consolidated action shall be heard in the court in which the parentage action is filed.

(e) (1) If a prospective adoptive parent who has physical custody of the child, a licensed California adoption agency that has legal custody of the child or to which the mother proposes to relinquish the child for adoption, or a person whom the mother has designated as the prospective adoptive parent in a written statement executed before a hospital social worker, an adoption service provider, an adoption agency representative, or a notary public, has not been joined as a party to an action to determine the existence of a parent and child relationship under subdivision (a), (b), or (c), or an action for custody by a person claiming to be a parent under this division, the court shall join the prospective adoptive parent or licensed California adoption agency as a party upon application or on its own motion, without the necessity of a motion for joinder. A joined party shall not be required to pay a fee in connection with this action.

(2) If a person brings an action to determine parentage and custody of a child who the person has reason to believe is in the physical or legal custody of an adoption agency, or of one or more persons other than the child's parent who are prospective

adoptive parents, the person shall serve the entire pleading on, and give notice of all proceedings to, the adoption agency or the prospective adoptive parents, or both.

(f) A party to an assisted reproduction agreement may bring an action at any time to establish a parent and child relationship consistent with the intent expressed in that assisted reproduction agreement.

(g) (1) In an action to determine the existence of the parent and child relationship brought pursuant to subdivision (b), if the child's other parent has died and there are no existing court orders or pending court actions involving custody or guardianship of the child, then the persons having physical custody of the child shall be served with notice of the proceeding at least 15 days prior to the hearing, either by mail or in a manner authorized by the court. If a person identified as having physical custody of the child cannot be located, the court shall prescribe the manner of giving notice.

(2) If known to the person bringing the parentage action, relatives within the second degree of the child shall be given notice of the proceeding at least 15 days prior to the hearing, either by mail or in a manner authorized by the court. If a person identified as a relative of the second degree of the child cannot be located, or the relative's whereabouts are unknown or cannot be ascertained, the court shall prescribe the manner of giving notice, or shall dispense with giving notice to that person.

(3) Proof of notice pursuant to this subdivision shall be filed with the court before the proceeding to determine the existence of the parent and child relationship is heard.

SEC. 29. Section 78002 of the Food and Agricultural Code is amended to read:

78002. (a) Upon a finding by a two-thirds vote of the membership of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

(b) The secretary shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the secretary requesting a suspension signed by not less than 20 percent of the producers by number who produced not less than 20 percent of the gross dollar value of flowers in the immediately preceding marketing year, hold a referendum among the producers to determine if the operations of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows, by a preponderance of evidence, that the operation of this chapter has not tended to effectuate its declared purposes.

(c) The secretary shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The secretary may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. The secretary shall suspend the operation of this chapter if the secretary finds that at least 40 percent of the total number of producers from the list established by the secretary have participated in the referendum and either one of the following has occurred:

(1) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority of the total gross dollar value of flowers in the preceding marketing year by all of the producers who voted in the referendum.

(2) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total gross dollar value of flowers in the preceding marketing year by all of the producers who voted in the referendum.

SEC. 30. Section 12893.1 of the Government Code is amended to read:

12893.1. (a) (1) The Labor and Workforce Development Agency and the California Workforce Development Board shall oversee a stakeholder process to support the development of findings and recommendations on how to best mitigate the employment impacts of automation at the Port of Los Angeles and the Port of Long Beach. To help inform the stakeholder process, an industry panel is hereby created in the agency.

(2) The California Workforce Development Board may contract with University of California at Los Angeles (UCLA) Labor Center to perform the actions described in subdivision (e).

(b) (1) The industry panel shall consist of the following members:

(A) Eight members appointed by the Secretary of Labor and Workforce Development as follows:

(i) Three members from employee unions that represent marine cargo handlers at the Port of Los Angeles and the Port of Long Beach.

(ii) Three members who are representatives of marine cargo employers operating at the Port of Los Angeles and Port of Long Beach.

(iii) The Executive Director of the Port of Los Angeles or the executive director's designee.

(iv) The Executive Director of the Port of Long Beach or the executive director's designee.

(B) One member appointed by the Speaker of the Assembly with experience in education, training, and workforce development.

(C) One member appointed by the Senate Committee on Rules with experience in education, training, and workforce development.

(2) Each member shall be appointed to a term of three years. A member who fails to attend two industry panel meetings in one calendar year shall be deemed removed from the industry panel, and the appointing power for that member shall appoint a new member to fill the vacancy.

(3) Industry panel members shall not receive per diem or other similar compensation for serving as an industry panel member.

(c) The industry panel shall invite stakeholders and subject matter experts to participate in the stakeholder process, including port districts, public agencies, labor organizations, shipping companies, marine-oriented trade associations, nonprofit organizations, and education, training, and workforce development entities. As appropriate, the costs of the industry panel and the stakeholder process may be reduced by in-kind or other contributions from third parties.

(d) (1) During the process, representatives from the Labor and Workforce Development Agency and from the California Workforce Development Board, and members of the industry panel shall consider issues including, but not limited to, employment impacts that result from the use of automated technology, including the impact on individuals employed by public and private sector entities supporting port activities and living in communities adjacent to the ports.

(2) The first meeting of the stakeholder process shall be held on or before 90 days after the funding becomes available for the purposes of this section.

(e) The UCLA Labor Center may commission expert research and testimony to supplement the stakeholder process and support the development of findings and recommendations pursuant to this section.

(f) The industry panel shall provide an annual update of the stakeholder process at a regularly scheduled meeting of the California Workforce Development Board.

(g) Upon completion of the stakeholder process, but by no later than July 1, 2023, the Labor and Workforce Development Agency and the California Workforce Development Board shall issue findings and recommendations on the most effective ways to implement policies and programs to mitigate the employment impacts of automation and the transitioning of seaport operations to low- and zero-emission operations on workers and individuals living in communities adjacent to the ports.

(h) This section shall be implemented upon appropriation by the Legislature of funds for purposes of this section.

(i) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 31. Section 13975.2 of the Government Code is amended and renumbered as Section 1392.5 of the Health and Safety Code to read:

1392.5. (a) This section applies to every action brought in the name of the people of the State of California by the Director of the Department of Managed Health Care before, on, or after the effective date of this section, when enforcing provisions of those laws administered by the Director of the Department of Managed Health Care which authorize the Director of the Department of Managed Health Care to seek a permanent or preliminary injunction, restraining order, or writ of mandate, or the appointment of a receiver, monitor, conservator, or other designated fiduciary or officer of the court. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate. The court may order that the expenses and fees of the receiver, monitor, conservator, or other designated fiduciary or officer of the court, be paid from the property held by the receiver, monitor, conservator, or other court-designated fiduciary or officer, but neither the state, the Health and Human Services Agency, nor the Department of Managed Health Care shall be liable for any of those expenses and fees, unless expressly provided for by written contract.

(b) The receiver, monitor, conservator, or other designated fiduciary or officer of the court may do any of the following subject to the direction of the court:

(1) Sue for, collect, receive, and take into possession all the real and personal property derived by any unlawful means, including property with which that property or the proceeds thereof has been commingled if that property or the proceeds thereof cannot be identified in kind because of the commingling.

(2) Take possession of all books, records, and documents relating to any unlawfully obtained property and the proceeds thereof. In addition, they shall have the same right as a defendant to request, obtain, inspect, copy, and obtain copies of books, records, and documents maintained by third parties that relate to unlawfully obtained property and the proceeds thereof.

(3) Transfer, encumber, manage, control, and hold all property subject to the receivership, including the proceeds thereof, in the manner directed or ratified by the court.

(4) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof to any person who committed, aided or abetted, or participated in the commission of unlawful acts or who had knowledge that the property had been unlawfully obtained.

(5) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof made with the intent to hinder or delay the recovery of that property or any interest in it by the receiver or any person from whom the property was unlawfully obtained.

(6) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof that was made within one year before the date of the entry of the receivership order if less than a reasonably equivalent value was given in exchange for the transfer, except that a bona fide transferee for value and without notice that the property had been unlawfully obtained may retain the interest transferred until the value given in exchange for the transfer is returned to the transferee.

(7) Avoid a transfer of any interest in any unlawfully obtained property including the proceeds thereof made within 90 days before the date of the entry of the receivership order to a transferee from whom the defendant unlawfully obtained some property if (A) the receiver establishes that the avoidance of the transfer will promote a fair pro rata distribution of restitution among all people from whom defendants unlawfully obtained property and (B) the transferee cannot establish that the specific property transferred was the same property that had been unlawfully obtained from the transferee.

(8) Exercise any power authorized by statute or ordered by the court.

(c) A person with actual or constructive notice of the receivership shall not interfere with the discharge of the receiver's duties.

(d) A person shall not file any action or enforce or create any lien, or cause to be issued, served, or levied any summons, subpoena, attachment, or writ of execution against the receiver or any property subject to the receivership without first obtaining prior court approval upon motion with notice to the receiver and the Director of the Department of Managed Health Care. Any legal procedure described in this subdivision commenced without prior court approval is void except as to a bona fide purchaser or encumbrancer for value and without notice of the receivership. A person without notice of the receivership shall not incur any liability for commencing or maintaining any legal procedure described by this subdivision.

(e) The court shall have jurisdiction of all questions arising in the receivership proceedings and may make any orders and judgments as may be required, including orders after noticed motion by the receiver to avoid transfers as provided in paragraphs (4), (5), (6), and (7) of subdivision (b).

(f) This section is cumulative to all other provisions of law.

(g) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(h) The recordation of a copy of the receivership order imparts constructive notice of the receivership in connection with any matter involving real property located in the county in which the receivership order is recorded.

SEC. 32. Section 105206 of the Health and Safety Code is amended to read:

105206. (a) In order for an employer to satisfy their responsibilities for medical supervision of their employees who regularly handle pesticides pursuant to Section 6728 of Title 3 of the California Code of Regulations, the employer shall contract with a medical supervisor registered with the Office of Environmental Health Hazard Assessment (OEHHA).

(b) A laboratory that performs tests ordered by a medical supervisor shall report the information specified in subdivision (c) to the Department of Pesticide Regulation. Reports shall be submitted to the Department of Pesticide Regulation on, at a minimum, a monthly basis. For the purpose of meeting the requirements in subdivision (e), the reports shall be submitted via electronic media and formatted in a manner approved by the director. The Department of Pesticide Regulation shall share information from

cholinesterase reports with the OEHHA and the State Department of Public Health on an ongoing basis, in an electronic format, for the purpose of meeting the requirements of subdivisions (f) and (g).

(c) The laboratory shall report all of the following information in its possession in complying with subdivision (a):

- (1) The test results in International Units per milliliter of sample (IU/mL).
- (2) The purpose of the test, as indicated by the medical supervisor, as a cholinesterase test requested for an agricultural worker under medical supervision, and, if so, whether it is for a baseline, followup, or recovery test ordered to meet the requirements of Section 6728 of Title 3 of the California Code of Regulations or for the evaluation of suspected pesticide illness.
- (3) The name of the person tested.
- (4) The date of birth of the person tested.
- (5) The name, address, and telephone number of the medical supervisor who ordered the analysis.
- (6) The name, address, and telephone number of the laboratory.
- (7) The date that the sample was collected from the person and the date the result was reported.
- (8) Contact information for the person tested and the person's employer, if known and readily available.

(d) The registered medical supervisor ordering a cholinesterase test for a person pursuant to subdivision (a) shall note in the test order the name of the medical supervisor and the purpose of the test, pursuant to paragraph (2) of subdivision (c), and ensure that the person tested and the employer receive a copy of the cholinesterase test results and any recommendations from the medical supervisor based upon those results within 14 days of the medical supervisor's receipt of the results. The medical supervisor shall report any worker with cholinesterase depression indicating pesticide exposure to the local health officer pursuant to Section 105200.

(e) All information reported pursuant to this section shall be confidential, as provided in Section 100330, except that the OEHHA, the Department of Pesticide Regulation, and the State Department of Public Health may share the information for purposes of surveillance, case management, investigation, environmental remediation, or abatement with the appropriate county agricultural commissioner and local health officer.

(f) The OEHHA shall establish a procedure for registering and deregistering medical supervisors for purposes of outreach and training and may establish reasonable requirements for performance. The OEHHA shall review the cholinesterase test results and may provide an appropriate medical or toxicological consultation to the medical supervisor. In addition to the duties performed pursuant to Section 105210, the OEHHA, in consultation with the Department of Pesticide Regulation and the local health officer, may provide medical and toxicological consultation, as appropriate, to the county agricultural commissioner to address medical issues related to the investigation of cholinesterase inhibitor-related illness.

(g) The Department of Pesticide Regulation and the OEHHA shall prepare and publicly post an update on the effectiveness of the medical supervision program and the utility of laboratory-based reporting of cholinesterase testing for illness surveillance and prevention by January 1, 2021.

(h) 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. 33. Section 1205 of the Labor Code is amended to read:

1205. (a) As used in this section and in Section 1206:

- (1) "Local jurisdiction" means any city, county, district, or agency, or any subdivision or combination thereof.
- (2) "State agency" means any state office, officer, department, division, bureau, board, commission, or agency, or any subdivision thereof.
- (3) "Labor standards" means any legal requirements regarding wages paid, hours worked, and other conditions of employment.

(b) Local jurisdictions may enforce state labor standards requirements regarding the payment of wages set forth in Division 2 (commencing with Section 200).

(c) This part shall not be deemed to restrict the exercise of local police powers in a more stringent manner.

(d) When a local jurisdiction expends funds that have been provided to it by a state agency, operates a program that has received assistance from a state agency, or engages in an activity that has received assistance from a state agency, labor standards

established by the local jurisdiction through exercise of local police powers or spending powers shall take effect with regard to that expenditure, program, or activity, so long as those labor standards are not in explicit conflict with, or explicitly preempted by, state law. A state agency may not require as a condition to the receipt of state funds or assistance that a local jurisdiction refrain from applying labor standards established by the local jurisdiction to expenditures, programs, or activities supported by the state funds or assistance in question.

SEC. 34. Section 236.1 of the Penal Code is amended to read:

236.1. (a) A person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

(b) A person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than five hundred thousand dollars (\$500,000).

(c) A person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking. A violation of this subdivision is punishable by imprisonment in the state prison as follows:

(1) Five, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

(2) Fifteen years to life and a fine of not more than five hundred thousand dollars (\$500,000) when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person.

(d) In determining whether a minor was caused, induced, or persuaded to engage in a commercial sex act, the totality of the circumstances, including the age of the victim, the victim's relationship to the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be considered.

(e) Consent by a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

(f) Mistake of fact as to the age of a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

(g) The Legislature finds that the definition of human trafficking in this section is equivalent to the federal definition of a severe form of trafficking found in Section 7102(11) of Title 22 of the United States Code.

(h) For purposes of this chapter, the following definitions apply:

(1) "Coercion" includes a scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; the abuse or threatened abuse of the legal process; debt bondage; or providing and facilitating the possession of a controlled substance to a person with the intent to impair the person's judgment.

(2) "Commercial sex act" means sexual conduct on account of which anything of value is given or received by a person.

(3) "Deprivation or violation of the personal liberty of another" includes substantial and sustained restriction of another's liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(4) "Duress" includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which the person would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess an actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or immigration document of the victim.

(5) "Forced labor or services" means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

(6) "Great bodily injury" means a significant or substantial physical injury.

(7) "Minor" means a person less than 18 years of age.

(8) "Serious harm" includes any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or commercial sexual acts in order to avoid incurring that harm.

(i) The total circumstances, including the age of the victim, the relationship between the victim and the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be factors to consider in determining the presence of "deprivation or violation of the personal liberty of another," "duress," and "coercion" as described in this section.

SEC. 35. Section 851.7 of the Penal Code is amended to read:

851.7. (a) Any person who has been arrested for a misdemeanor, with or without a warrant, while a minor, may, during or after minority, petition the court in which the proceedings occurred or, if there were no court proceedings, the court in whose jurisdiction the arrest occurred, for an order sealing the records in the case, including any records of arrest and detention, if any of the following occurred:

(1) The person was released pursuant to paragraph (1) of subdivision (b) of Section 849.

(2) Proceedings against the person were dismissed, or the person was discharged, without a conviction.

(3) The person was acquitted.

(b) If the court finds that the petitioner is eligible for relief under subdivision (a), it shall issue its order granting the relief prayed for. Thereafter, the arrest, detention, and any further proceedings in the case shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(c) This section applies to arrests and any further proceedings that occurred before, as well as those that occur after, the effective date of this section.

(d) This section does not apply to any person taken into custody pursuant to Section 625 of the Welfare and Institutions Code, or to any case within the scope of Section 781 of the Welfare and Institutions Code, unless, after a finding of unfitness for the juvenile court or otherwise, there were criminal proceedings in the case, not culminating in conviction. If there were criminal proceedings not culminating in conviction, this section shall be applicable to the criminal proceedings if the proceedings are otherwise within the scope of this section.

(e) This section does not apply to arrests for, and any further proceedings relating to, any of the following:

(1) Offenses for which registration is required under Section 290.

(2) Offenses under Division 10 (commencing with Section 11000) of the Health and Safety Code.

(3) Offenses under the Vehicle Code or any local ordinance relating to the operation, stopping, standing, or parking of a vehicle.

(f) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted in evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(g) (1) A record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall review the case file and records that have been referenced by the prosecutor as necessary to meet the disclosure obligation and any response submitted by the person having the sealed record. The court shall approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed pursuant to this subdivision. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This subdivision does not impose any discovery obligations on a prosecuting attorney that do not already exist.

(2) This subdivision does not apply to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code.

(h) This section applies in any case in which a person was under 21 years of age at the time of the commission of an offense to which this section applies if that offense was committed prior to March 7, 1973.

SEC. 36. Section 1825 of the Public Utilities Code is amended to read:

1825. (a) If the commission determines in a proceeding that the appointment of a receiver is warranted pursuant to the processes or procedures adopted by the commission in its Decision 20-05-053, the commission may petition the superior court for the county within which PG&E Corporation has its principal office or place of business for the appointment of a receiver, as provided in paragraph (8) of subdivision (b) of Section 564 of the Code of Civil Procedure, to assume possession of Pacific Gas and Electric Company's property and to operate its system.

(b) For purposes of this section, both of the following definitions apply:

(1) "Decision 20-05-053" means Decision 20-05-053 (May 28, 2019) Decision Approving Reorganization Plan in Investigation 19-09-016 (September 26, 2019) Order Instituting Investigation on the Commission's Own Motion to Consider the Ratemaking and Other Implications of a Proposed Plan for Resolution of Voluntary Case filed by Pacific Gas and Electric Company Pursuant to Chapter 11 of the Bankruptcy Code, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Corporation and Pacific Gas and Electric Company, Case No. 19-30088.

(2) "Pacific Gas and Electric Company" means Pacific Gas and Electric Company, PG&E Corporation, any subsidiary or affiliate of the foregoing holding any assets related to the provision of electrical or gas service within Pacific Gas and Electric Company's service territory, and any successor to any of the foregoing.

SEC. 37. Section 3420 of the Public Utilities Code is amended to read:

3420. (a) The Governor, or the Governor's designee, may incorporate Golden State Energy as a nonprofit public benefit corporation pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) for the purpose of owning, controlling, operating, or managing electrical and gas services for its ratepayers and for the benefit of all Californians.

(b) (1) Golden State Energy's initial board of directors shall consist of nine members.

(2) (A) The initial board members shall be appointed as follows: five members appointed by the Governor, two members appointed by the Senate Committee on Rules, and two members appointed by the Speaker of the Assembly.

(B) Of the initial board members, one appointee from each of the appointing authorities shall initially serve a two-year term, three appointees by the Governor shall initially serve four-year terms, and one appointee from each of the appointing authorities shall initially serve a six-year term.

(3) (A) The initial board of directors shall amend Golden State Energy's bylaws to include procedures for the transition to a board consisting of three appointed members, with one member appointed by each of the appointing authorities specified in paragraph (2), who shall serve four-year terms, and six members elected by Golden State Energy's customers, who shall serve a maximum of six-year terms. The procedures for the transition shall provide for the following:

(i) The initial board members serving the two-year term shall be replaced by elected members.

(ii) The initial board members serving the four-year term shall be replaced by elected members.

(iii) The initial board members serving the six-year term shall be replaced by appointed members, with one member appointed by each of the appointing authorities. The appointing authority may reappoint a board member whose term has expired.

(B) Election procedures adopted by the initial board shall include all of the following:

(i) Nomination of members for election to the board shall be based on a matrix of skills, including the following expertise and experience:

(I) Wildfire safety, preparedness, prevention, mitigation, response, or recovery.

(II) Workforce safety and safety culture.

(III) Nuclear generation safety.

- (IV) Leadership in the energy or utility industry.
- (V) Utility operations and engineering.
- (VI) Innovation and technology in renewable energy.
- (VII) Risk management, including enterprise risk management.
- (VIII) Climate change mitigation or climate resilience.
- (IX) Financial performance and planning.
- (X) Legal, regulatory, or government experience related to utilities.
- (XI) Audit.
- (XII) Corporate governance or executive compensation.
- (XIII) Labor relations.
- (XIV) Large-scale customer experience.
- (XV) Utility board experience.

(ii) Measures to maximize board member diversity and the selection of California residents located in the service territory of Golden State Energy.

(iii) Selection by the board, or a committee of the board, of a slate of candidates for election that shall include no less than two candidates for each open board seat using search firms to identify, evaluate, and recommend the most qualified candidates for election.

(iv) Incorporation of stakeholder input into the board selection process.

(C) All elected or appointed members of the board, including those appointed pursuant to paragraph (2), shall be free of conflicts of interest that violate state law or the by-laws of Golden State Energy, and shall have demonstrated expertise or experience in one or more of the areas listed in subclauses (I) to (XV), inclusive, of clause (i) of subparagraph (B).

(4) The initial board of directors shall amend Golden State Energy's bylaws to include provisions that do all of the following:

(A) Ensure that the purposes and functions of Golden State Energy are consistent with the purposes and functions of nonprofit, public benefit corporations in the state, including duties of care and conflict-of-interest standards for officers and board members of a corporation.

(B) Maintain open meeting standards and meeting notice requirements consistent with the general policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and affording the public the greatest possible access, consistent with other duties of the corporation.

(C) Provide public access to corporate records consistent with the general policies of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and affording the public the greatest possible access, consistent with the other duties of the corporation.

(5) Upon the adoption or amendment of Golden State Energy's bylaws, the board shall submit the adopted or amended bylaws to the Governor, the Legislature, and the commission.

SEC. 38. Section 17020.12 of the Revenue and Taxation Code is amended to read:

17020.12. (a) For the purposes of this part, except as otherwise provided, the determination of whether an individual is an employee shall be governed by Article 1.5 (commencing with Section 2775) of Chapter 2 of Division 3 of the Labor Code.

(b) Section 7701(a)(20) of the Internal Revenue Code, relating to definition of "employee," applies, except as otherwise provided.

SEC. 39. The heading of Article 26 (commencing with Section 18914) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, as added by Section 1 of Chapter 445 of the Statutes of 2019, is amended and renumbered to read:

Article 27. Suicide Prevention Voluntary Tax Contribution Fund

SEC. 40. Section 10202 of the Welfare and Institutions Code is amended to read:

10202. The Legislature finds and declares both of the following:

(a) The state's system of early learning and care must become more integrated and coordinated to achieve its goals of promoting a high-quality, affordable, early childhood system designed to comprehensively and effectively serve children and families.

(b) Social determinants of health, adverse childhood experiences, quality learning and care for children, and economic and other supports for the needs of families are critical determinants of life outcomes for children, and California's system of early learning and care must address inequities and disproportionalities.

SEC. 41. Section 10203 of the Welfare and Institutions Code is amended to read:

10203. (a) It is the intent of the Legislature to launch a phased approach to achieving the goals of the state's Master Plan for Early Learning and Care, uniting childcare programs where they can best be integrated with other child and family focused benefits, programs, and services, and support childcare providers and programs while maintaining vital connections to preschool, transitional kindergarten, and elementary and secondary education.

(b) To effectuate this transition, effective July 1, 2021, responsibility for the following programs, responsibilities, services, and systems are hereby transferred from the State Department of Education and the Superintendent of Public Instruction to the State Department of Social Services:

(1) Alternative payment programs pursuant to Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(2) Migrant alternative payment programs pursuant to Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(3) CalWORKs Stage 2 childcare pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(4) CalWORKs Stage 3 childcare pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(5) General childcare and development programs pursuant to Article 8 (commencing with Section 8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(6) Migrant childcare and development programs pursuant to Article 6 (commencing with Section 8230) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(7) Childcare and development services for children with severe disabilities pursuant to Article 9 (commencing with Section 8250) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(8) The Child and Adult Care Food Program implemented pursuant to Section 1766 of Title 42 of the United States Code.

(9) Childcare and development facilities capital outlay pursuant to Article 24 (commencing with Section 8493) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(10) Responsibility as the lead agency for administration of the Child Care and Development Fund, as defined in Section 98.2 of Title 45 of the Code of Federal Regulations, and as set forth in Sections 8206 to 8206.6, inclusive, of the Education Code.

(11) Responsibility as the lead agency for the Early Learning and Care Infrastructure Grant Program pursuant to Section 8280 of the Education Code.

(12) The Early Learning and Care Workforce Development Grants Program pursuant to Section 8280.1 of the Education Code.

(13) The California Head Start State Collaboration Office funded by collaboration grants awarded pursuant to Section 9837b of Title 42 of the United States Code.

(14) The Early Head Start-Child Care Partnerships Grant from the United States Department of Health and Human Services.

(15) Resource and referral agencies pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(16) Local childcare and development planning councils pursuant to Chapter 2.3 (commencing with Section 8499) of Part 6 of Division 1 of Title 1 of the Education Code.

(17) The California Child Care Initiative Project pursuant to Section 8215 of the Education Code.

(18) Other childcare quality improvement projects.

(19) Any memoranda of understanding and partnerships related to the programs, services, and systems listed in this subdivision.

(20) The Child Development Management Information System and other related data systems as they pertain to the programs, services, and systems listed in this subdivision.

SEC. 42. Section 10205 of the Welfare and Institutions Code is amended to read:

10205. (a) Commencing July 1, 2021, the department succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the programs, responsibilities, services, and systems listed in subdivision (b) of Section 10203.

(b) The department may enter into memoranda of understanding or interagency agreements or contracts with the California Health and Human Services Agency, its other departments and offices, the State Department of Education, and any other state agency, department, or office, as necessary, to implement this part.

(c) Unless the context clearly requires otherwise, any reference to the State Department of Education or the Superintendent of Public Instruction in any regulation, contract, or in any other code, with respect to any of the programs, responsibilities, services, or systems listed in subdivision (b) of Section 10203, is a reference to the State Department of Social Services.

(d) Without limiting any other powers or duties, the department shall ensure compliance with the terms of any state plans, memoranda of understanding, administrative orders, interagency agreements, contracts, assurances, single state agency obligations, federal statutes and regulations, and any other form of agreement or obligation that vital government activities rely upon or are a condition to the continued receipt by the department of state or federal funds or services.

(e) All existing regulations relating to programs, responsibilities, services, and systems listed in subdivision (b) of Section 10203 that have been adopted by the State Department of Education on or before June 30, 2021, are expressly continued in force, unless they conflict with Chapter 24 of the Statutes of 2020 (Senate Bill 98 of the 2019-20 Regular Session). Any statute, law, rule, or regulation relating to the programs, responsibilities, services, and systems listed in subdivision (b) of Section 10203 that are in force on June 30, 2020, or that may hereafter be enacted or adopted with reference to this part, applies to the department.

(f) A contract, lease, license, state or federal grant, memorandum of understanding, or any other agreement relating to the programs, responsibilities, services, and systems listed in subdivision (b) of Section 10203 to which the State Department of Education is a party is not void or voidable by reason of Chapter 24 of the Statutes of 2020, but are continued in full force and effect, with the department assuming all of the rights, obligations, and duties of the State Department of Education. The assumption by the department does not in any way affect the rights of the parties to the contract, lease, license, state or federal grant, memorandum of understanding, or agreement.

(g) Any legal action concerning the duties, responsibilities, obligations, liabilities, and functions described in this chapter shall not abate, and shall continue in the name of the department. The substitution of the department for the State Department of Education or the Superintendent of Public Instruction does not affect the rights of the parties to the action.

(h) All financial and accounting records, documents, records, and property relating to programs, responsibilities, services, and systems listed in subdivision (b) of Section 10203 shall be transferred to the department by the State Department of Education. The format and timing of this transfer shall be mutually agreed upon by the State Department of Social Services and the State Department of Education and the Superintendent of Public Instruction, and shall not require formal agreement or approval by any other entity.

(i) On or before July 1, 2021, the Governor shall establish the position of Deputy Director of Child Development within the department, as an exempt position, to be appointed by the Governor, subject to confirmation by the Senate, and to hold office at the pleasure of the Governor.

(j) On or before March 31, 2021, the department shall submit to the appropriate budget and policy committees of the Legislature, the Department of Finance, and the Early Childhood Policy Council, a plan that describes how the department will achieve the intent expressed in Section 10203, including a description of activities undertaken by the department up until that date, and specifying all of the following:

(1) How the department intends to make childcare programs more integrated.

(2) How the department plans to maintain existing connections or enhance connections to California state preschool programs, transitional kindergarten, and elementary and secondary education.

(3) An estimate of the ongoing cost of the State Department of Social Services for administering childcare programs. A description of the number of positions that will move to the State Department of Social Services from the State Department of

Education and the number of additional positions the State Department of Social Services will need.

(4) How this shift results in better services for children and families, including how this shift will ensure families have the most comprehensive information about their choices in comprehensive supports for their families, including childcare.

(5) How the department plans to prevent administrative duplication and regulatory conflict for providers that have contracts for both general childcare and development programs and California state preschool programs.

(6) How the department plans to maintain the existing provider flexibility to transfer funds across contracts for both general childcare and development programs and California state preschool programs.

(7) How the department plans to ensure quality projects support state-supported childcare in all settings, including California state preschool programs.

(8) How the California Head Start State Collaboration Office will continue to engage with California state preschool program providers and school districts.

(9) How parents will be provided enhanced information about making an informed childcare choice that best meets their child's and family's needs, from the full spectrum of quality childcare available.

(10) How a cradle-to-career, interagency data system will provide improved state-level reporting, support the goals of the Master Plan for Early Learning and Care, and support the achievement of paragraph (9).

(11) Further plans to align activities with recommendations from the Master Plan for Early Learning and Care regarding childcare.

(k) From October 1, 2020, to December 31, 2024, inclusive, the department shall submit to the appropriate budget and policy committees of the Legislature, the Department of Finance, and the Early Childhood Policy Council a quarterly report that describes how the department is making progress on the transition required by this chapter, and how the department is furthering the intent of this transition.

SEC. 43. Section 10206 of the Welfare and Institutions Code is amended to read:

10206. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services and the State Department of Education may implement, interpret, or make specific this part by means of all-county letters, bulletins, or similar written instructions from either department until regulations are adopted. These all-county letters or similar written instructions shall have the same force and effect as regulations.

(b) Initial regulations developed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) that are necessary to implement Chapter 24 of the Statutes of 2020 (Senate Bill 98 of the 2019-20 Regular Session) shall be adopted by each department no later than December 31, 2023.

SEC. 44. Section 1 of Chapter 115 of the Statutes of 2020 is amended to read:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Sustainable and resilient markets for recycled materials are essential to any successful recycling system.

(2) Since the inception of the California Integrated Waste Management Act of 1989 (Division 30 (commencing with Section 40000) of the Public Resources Code), the state has depended on foreign markets to accept the recyclable materials that are collected for recycling in the state.

(3) Developing domestic markets for recycled materials benefits the environment and the state's economy and is critical due to the loss of foreign markets.

(4) China's 2018 National Sword policy bans the importation of recycled mixed paper and certain types of recycled plastic and imposes a stringent 0.5 percent contamination limit on all other recycled material imports.

(5) The state's recycling facilities are struggling to find markets for recycled materials, resulting in the stockpiling of these materials.

(6) The state must reduce its reliance on unpredictable foreign markets for its recycled materials.

(7) The state has established minimum recycled content requirements for glass containers, rigid plastic packaging containers, newsprint, trash bags, and other products. However, the state does not require the use of recycled content in plastic containers

regulated under the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500) of the Public Resources Code).

(8) Plastic bottles can be recycled and can contain recycled content to close the loop in the recycling stream. Other products manufactured using recycled plastic beverage containers are generally not recycled and, therefore, do not provide the same closed-loop system.

(9) Many companies have already taken the initiative at closing the loop by using plastic bottles that contain 100 percent recycled content. Since November 2010, Naked Juice Company has been using bottles made with 100 percent postconsumer recycled content for all of its juices and juice smoothies. In January 2018, Danone, which owns the natural spring water brand Evian, announced that it will make all its bottles from 100 percent recycled plastic by 2025.

(10) On April 22, 2020, Governor Gavin Newsom signed an executive order suspending for 60 days several regulations, including the requirement for beverage container redemption centers to operate. On June 22, 2020, Governor Gavin Newsom signed another executive order extending the 60-day suspension for certain beverage container redemption center requirements for another 60 days. Most states with bottle bills have suspended their programs or regulation enforcement for a limited time during the pandemic.

(11) The state has experienced an estimated 30 percent drop in the volume of beverage containers reclaimed through its deposit program from March 14, 2020, to May 22, 2020, inclusive, compared with 2019, according to preliminary data from the Department of Resources Recycling and Recovery.

(12) The drop in redeemed beverage container volume is believed to be caused by a combination of temporary redemption center closures and consumers voluntarily avoiding venturing into public spaces. The shift equates to about a \$61 million reduction in the amount of deposit money redeemed.

(13) The requirements imposed by this act are reasonable and are achievable at minimal cost relative to the burden imposed by the continued excessive use of virgin materials in beverage containers in the state.

(b) It is the intent of the Legislature that any moneys collected as administrative penalties for violations of this act be appropriated in the annual Budget Act for purposes of market development and increasing the recycling of plastic beverage containers, including, but not limited to, for funding processing payments not covered by processing fees and for funding market development payments.

SEC. 45. Section 26 of Chapter 264 of the Statutes of 2020 is amended to read:

SEC. 26. (a) The State Department of Social Services shall exchange data with the Franchise Tax Board upon request, including, but not limited to, the names, addresses, and contact information of individuals that may qualify for the California Earned Income Tax Credit. The data provided shall remain confidential and shall be used only for purposes directly connected with the California Earned Income Tax Credit.

(b) Notwithstanding Section 19542 or any other law, the Franchise Tax Board may disclose individual income tax return information for taxable years beginning on or after January 1, 2018, and before January 1, 2020, to the State Department of Social Services. The information provided shall remain confidential and shall be used only for the purpose of informing state residents of the availability of federal economic stimulus payments.

SEC. 46. Any section of any act enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, 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.