2016 Cal SB 1171

Enacted, July 22, 2016

Reporter
2016 Cal ALS 86; 2016 Cal SB 1171; 2016 Cal Stats. ch. 86

CALIFORNIA ADVANCE LEGISLATIVE SERVICE > 2016 REGULAR SESSION > CHAPTER 86 > (SENATE BILL NO. 1171)

Notice

Added: Text highlighted in green
Deleted: ~~Red text with a strikethrough~~

Digest

Maintenance of the codes.

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

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

Synopsis

An act to amend *Sections 655, 1264, 2554, 2556.1, 2715, 2759, 3020, 4430, 6026.7, 6360, 6410.5, 7541.1, 7685, 7818, 19351, and 19861 of the Business and Professions Code*, to amend *Sections 48a, 52.5, 1770, 1798.29, and 1798.82 of the Civil Code*, to amend Sections 437c, 472a, 527.6, 765.030, 832, 835, 1084, 1097, 2025.010, 2031.010, 2033.010, 2035.010, 2036.010, and 2093 of, to amend and renumber Sections 850, 851, 852, 853, 854, 855, and 856 of, and to amend the heading of Chapter 8 (commencing with *Section 850) of Title 10 of Part 2 of, the Code of Civil Procedure*, to amend *Sections 2105, 2207, 17708.02, 25100, and 25247 of the Corporations Code*, to amend Sections 221.6, 1313, 8340.4, 17250.25, 17250.35, 33353.7, 41360, 41422, 42925, 44977.5, 44984, 45192, 46392, 48204.2, 51421.5, 51745.6, 66302, 69800.2, 70037, 84750.5, 84916, 87787, 88192, 89090, 89708, 89712, 92630, and 94925 of, and to amend and repeal *Section 66749.5 of, the Education Code*, to amend Sections 17, 1000, 1301, 2142, 2150, 2155, 2196, 2250, 2263, 2265, 2270, 2600, 3025, 3114, 6850, 6850.5, 6851, 6853, 6854, 6854.5, 6855, 6857, 6859, 6861.5, 6862, 6863, 7901, 7902, 7903, 7904, 7911, 7912, 7913, 7918, 7921, 7922, 7927, 12309.5, 13307, 14026, 14405, 18108, and 18108.1 of, and to amend the heading of Article 2 (commencing with *Section 6851) of Chapter 5 of Part 1 of Division 6 of, the Elections Code*, to amend *Sections 980, 1010, 1106, and 1157 of the Evidence Code*, to amend Sections 7612, 7613.5, 8811, and 8908 of, and to repeal *Sections 20024 and 20039 of, the Family Code*, to amend *Sections 2022, 6440, 7704, and 12029 of the Fish and Game Code*, to amend *Sections 14651.5, 27581.1, 27583.2, 27583.4, 52332, 55631, 56109, 67132, and 76953.5 of the Food and Agricultural Code*, to amend Sections 421, 1225, 5970, 6254.5, 7161, 8594.15, 8670.13, 8670.13.3, 8670.28, 14670.36, 17581.9, 19130, 19241, 22865, 34886, 53515, 56332, 82015, 83123.6, 87207, and 89506 of, to amend and renumber Section 8670.95 of, and to amend and renumber the heading of Chapter 15 (commencing with *Section 5970) of Division 6 of Title 1 of, the Government Code*, to amend Sections 1204.2, 1262.5, 1266, 1279.7, 1342.71, 1358.18, 1367.005, 1367.27, 1569.2, 1596.8662, 1760.2, 12640, 18080, 25150.7, 25180, 25250.15, 25270.6, 32132.8, 34191.3, 44017, 44559.4, 101853.1, 112895, 113789, 117945, 118330, 120375, and 129160 of,

and to amend and renumber Section 110424 of, the Health and Safety Code, to amend *Sections 38.6, 10082.5, 10112.27, 10123.193, 10133.15, 10169, 10192.18, 10489.2, 10489.3, 10489.96, 10489.99, 10603, and 12389 of the Insurance Code*, to amend Sections 139.2, 1720, 2750.8, 3503, and 4663 of the Labor Code, to amend *Section 451 of the Military and Veterans Code*, to amend *Sections 136.2, 186.2, 186.11, 186.12, 236.1, 241, 502.8, 670, 679.10, 832.3, 1214.5, 1524.2, 1526, 1546, 1546.1, 1546.2, 3000.08, 3016, 3056, 4030, 4031, 5065.5, 15003, and 33880 of the Penal Code*, to amend *Sections 1490, 1510.1, 1828, 1851, 4788, 5203, and 16062 of the Probate Code*, to amend *Section 20111.6 of the Public Contract Code*, to amend *Sections 541.5, 5002.2, 5071.7, 8750, 25401, 26003, 30411, 42023.1, and 71103.5 of the Public Resources Code*, to amend Sections 274, 635, 873, 913.8, 1701, 2833, 2870, 7661, 8282, 21252, and 130350.7 of, and to amend and renumber *Section 387.8 of, the Public Utilities Code*, to amend Sections 408, 423.3, 12206, 17052.6, 17255, 18805, 18807, 18808, 19136, 19161, 19255, 19533, 19772, 20640.3, 21021, 23156, 23610.5, and 24356 of, to amend and renumber Section 24355.5 of, to add the heading of Part 13.5 (commencing with Section 31020) to Division 2 of, and to repeal *Sections 18035.6, 18036.6, and 41030 of, the Revenue and Taxation Code*, to amend *Sections 13003 and 14200 of the Unemployment Insurance Code*, to amend *Sections 2404.5, 11102.6, 16377, 21294, 22507.1, and 40215 of the Vehicle Code*, to amend *Sections 377, 10608.34, and 50906 of the Water Code*, and to amend *Sections 290.2, 366.21, 786, 4474.1, 11203, 11469, 11477, 14094.3, 14126.022, 14126.027, 14132.06, 14132.275, 14138.21, 15657.03, 16501.1, 17603, and 24005 of the Welfare and Institutions Code*, to amend Sections 325 and 330 of Chapter 303 of the Statutes of 2015, and to amend Section 8 of Chapter 590 of the Statutes of 2015, relating to the maintenance of the codes.

Text

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

SECTION 1.

Section 655 of the Business and Professions Code is amended to read:

§ 655.

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

(1) “Health plan” means a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*).

(2) “Optical company” means a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products.

(3) “Optometrist” means a person licensed pursuant to Chapter 7 (commencing with Section 3000) or an optometric corporation, as described in Section 3160.

(4) “Registered dispensing optician” means a person licensed pursuant to Chapter 5.5 (commencing with Section 2550).

(5) “Therapeutic ophthalmic product” means lenses or other products that provide direct treatment of eye disease or visual rehabilitation for diseased eyes.

(b) ~~No optometrist may~~AN OPTOMETRIST SHALL NOT have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.

(c)

(1) A registered dispensing optician or an optical company may operate, own, or have an ownership interest in a health plan so long as the health plan does not directly employ optometrists to provide optometric services directly to enrollees of the health plan, and may directly or indirectly provide products and services to the health plan~~or~~, its contracted providers or enrollees, or ~~to~~ other optometrists. For purposes of this section, an optometrist may be employed by a health plan as a clinical director for the health plan pursuant to *Section 1367.01 of the Health and Safety Code* or to perform services related to utilization management~~or~~, quality assurance, or other similar related services that do not require the optometrist to directly provide health care services to enrollees. In addition, an optometrist serving as a clinical director ~~may~~SHALL not employ optometrists to provide health care services to enrollees of the health plan for which the optometrist is serving as clinical director. For ~~the~~ purposes of this section, the health plan's utilization management and quality assurance programs that are consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*) do not constitute providing health care services to enrollees.

(2) The registered dispensing optician or optical company shall not interfere with the professional judgment of the optometrist.

(3) The Department of Managed Health Care shall forward to the State Board of Optometry any complaints received from consumers that allege ~~that~~ an optometrist violated the Optometry Practice Act (Chapter 7 (commencing with Section 3000)). The Department of Managed Health Care and the State Board of Optometry shall enter into an ~~Inter-Agency Agreement~~INTERAGENCY AGREEMENT regarding the sharing of information related to the services provided by an optometrist that may be ~~in violation of~~VIOLATING the Optometry Practice Act that the Department of Managed Health Care encounters in the course of ~~the administration of~~ADMINISTERING the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*).

(d) An optometrist, a registered dispensing optician, an optical company, or a health plan may execute a lease or other written agreement giving rise to a direct or indirect landlord-tenant relationship with an optometrist, if all of the following conditions are contained in ~~a~~THE written agreement establishing the landlord-tenant relationship:

(1)

(A) The practice shall be owned by the optometrist and in every phase be under the optometrist's exclusive control, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, fees charged for optometric products and services, the examination procedures and treatment provided to patients, and the optometrist's contracting with managed care organizations.

(B) Subparagraph (A) ~~shall~~DOES not preclude a lease from including commercially reasonable terms that: (i) require the provision of optometric services at the leased space during certain days and hours, (ii) restrict the leased space from being used for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other ophthalmic products, except that the optometrist shall be permitted to sell therapeutic ophthalmic products if the registered dispensing optician, health plan, or optical company located on or adjacent to the optometrist's leased space does not offer any substantially similar therapeutic ophthalmic products for sale, (iii) require the optometrist to contract with a health plan network, health plan, or health insurer, or (iv) permit the landlord to directly or indirectly provide furnishings and equipment in the leased space.

(2) The optometrist's records shall be the sole property of the optometrist. Only the optometrist and those persons with written authorization from the optometrist ~~shall~~ have access to the patient records and the examination room, except as otherwise provided by law.

(3) The optometrist's leased space shall be definite and distinct from space occupied by other occupants of the premises, have a sign designating that the leased space is occupied by an independent optometrist or optometrists and be accessible to the optometrist after hours or in the case of an emergency, subject to the facility's general accessibility. This paragraph ~~shall~~DOES not require a separate entrance to the optometrist's leased space.

(4) All signs and displays shall be separate and distinct from that of the other occupants and shall have the optometrist's name and the word "optometrist" prominently displayed in connection therewith. This paragraph ~~shall~~DOES not prohibit the optometrist from advertising the optometrist's practice location with reference to other occupants or prohibit the optometrist or registered dispensing optician from advertising ~~their~~HIS OR HER participation in any health plan's network or the health plan's products in which the optometrist or registered dispensing optician participates.

(5) There shall be no signs displayed on any part of the premises or in any advertising indicating that the optometrist is employed or controlled by the registered dispensing optician, health plan, or optical company.

(6) Except for a statement that an independent doctor of optometry is located in the leased space, in-store pricing signs, and as otherwise permitted by this subdivision, the registered dispensing optician or optical company shall not link its advertising with the optometrist's name, practice, or fees.

(7) Notwithstanding paragraphs (4) and (6), this subdivision ~~shall~~DOES not preclude a health plan from advertising its health plan products and associated premium costs and any copayments, coinsurance, deductibles, or other forms of ~~cost sharing~~COST-SHARING , or the names and locations of the health plan's providers, including any optometrists or registered dispensing opticians ~~that provide~~PROVIDING professional services, in compliance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*).

(8) A health plan that advertises its products and services in accordance with paragraph (7) shall not advertise the optometrist's fees for products and services that are not included in the health plan's contract with the optometrist.

(9) The optometrist shall not be precluded from collecting fees for services that are not included in a health plan's products and services, subject to any patient disclosure requirements contained in the health plan's provider agreement with the optometrist or that are not otherwise prohibited by the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*).

(10) The term of the lease shall be no less than one year and shall not require the optometrist to contract exclusively with a health plan. The optometrist may terminate the lease according to the terms of the lease. The landlord may terminate the lease for the following reasons:

(A) The optometrist's failure to maintain a license to practice optometry, or the imposition of restrictions, suspension, or revocation of the optometrist's license, or if the optometrist or the optometrist's employee is or becomes ineligible to participate in state or federal government-funded programs.

(B) Termination of any underlying lease ~~where~~IN WHICH the optometrist has subleased space ~~,~~ or the optometrist's failure to comply with the underlying lease provisions that ~~are made applicable~~APPLY to the optometrist.

(C) If the health plan is the landlord, the termination of the provider agreement between the health plan and the optometrist, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*).

(D) Other reasons pursuant to the terms of the lease or permitted under the Civil Code.

(11) The landlord shall act in good faith in terminating the lease, and ~~in no case shall~~ the landlord SHALL NOT terminate the lease for reasons that constitute interference with the practice of optometry.

(12) Lease or rent terms and payments shall not be based on THE number of eye exams performed, prescriptions written, patient referrals, or the sale or promotion of the products of a registered dispensing optician or an optical company.

(13) The landlord shall not terminate the lease solely because of a report, complaint, or allegation filed by the optometrist against the landlord, a registered dispensing optician, or a health plan ~~,~~ to the State Board of Optometry or the Department of Managed Health Care, or any law enforcement or OTHER regulatory agency.

(14)

The landlord shall provide the optometrist with written notice of the scheduled expiration date of a lease at least 60 days ~~prior to~~BEFORE the scheduled expiration date. This notice obligation ~~shall~~DOES not affect the ability of either party to terminate the lease pursuant to this section. The landlord ~~may~~SHALL not interfere with an outgoing optometrist's efforts to inform the optometrist's patients, in accordance with customary practice and professional obligations, of the relocation of the optometrist's practice.

(15)(A)The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if ~~such~~ a request TO INSPECT is made, the landlord or tenant, as applicable, ~~shall promptly comply~~PROMPTLY COMPLIES with the request. Failure or refusal to comply with the request for A lease ~~agreements~~OR AGREEMENT within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. ONLY PERSONAL INFORMATION AS DEFINED IN SECTION 1798.3 OF THE CIVIL CODE MAY BE REDACTED PRIOR TO SUBMISSION OF THE LEASE OR AGREEMENT. This section ~~shall~~DOES not affect the Department of Managed Health Care's authority to inspect all books and records of a health plan pursuant to *Section 1381 of the Health and Safety Code*. (B)Any financial information contained in the lease OR AGREEMENT submitted to a regulatory ~~entity~~AGENCY , pursuant to this paragraph, ~~shall be~~IS considered confidential trade secret information that is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with *Section 6250) of Division 7 of Title 1 of the Government Code*).

(16) This subdivision ~~shall not be applicable~~DOES NOT APPLY to the relationship between any optometrist employee and the employer medical group, or the relationship between a medical group exclusively contracted with a health plan regulated by the Department of Managed Health Care and that health plan.

(e) ~~No~~A registered dispensing optician ~~may~~SHALL NOT have any membership, proprietary interest, coownership, or ~~profit-sharing~~PROFIT SHARING arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as permitted under this section.

(f) ~~Nothing in this section shall~~THIS SECTION DOES NOT prohibit a person licensed under Chapter 5 (commencing with Section 2000) or its professional corporation from contracting with or employing optometrists, ophthalmologists, or optometric assistants and entering into a contract or landlord tenant relationship with a health plan, an optical company, or a registered dispensing optician, in accordance with Sections 650 and 654~~of this code~~.

(g)

~~Any~~A violation of this section constitutes a misdemeanor as to ~~such~~A person licensed under Chapter 7 (commencing with Section 3000) ~~of this division~~ and as to any and all persons, whether or not ~~so~~ licensed under this division, who participate with ~~such~~THE licensed person in ~~a violation of~~VIOLATING any provision of this section.

~~(h) (1)Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars ($50,000). In assessing the amount of the fine, the board shall give due consideration to all of the following: (A)The gravity of the violation. (B)The good faith of the cited person or entity. (C)The history of previous violations of the same or similar nature. (D)Evidence that the violation was or was not willful. (E)The extent to which the cited person or entity has cooperated with the board's investigation. (F)The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation. (G)Any other factors as justice may require. (2)A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. (3)The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following: (A)The issuance of a citation without an administrative fine. (B)The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2). (4)The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine. (5)Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure. (i)Administrative fines collected pursuant to this section shall be deposited in the Dispensing Opticians Fund. It is the intent of the Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.~~

SEC. 2.

*Section 1264 of the Business and Professions Code*is amended to read:

§ 1264.

(a) The department shall issue a clinical chemist, clinical microbiologist, clinical toxicologist, clinical genetic molecular biologist, or clinical cytogeneticist license to each person who has applied for the license on forms provided by the department, who is a lawful holder of a master of science or doctoral degree in the specialty for which the applicant is seeking a license, and who has met such additional reasonable qualifications of training, education, and experience as the department may establish by regulations. The department shall issue an oral and maxillofacial pathologist license to every applicant for licensure who has applied for the license on forms provided by the department, who is a registered Diplomate of the American Board of Oral and Maxillofacial Pathology, and who meets any additional and reasonable qualifications of training, education, and experience as the department may establish by regulation.

(a)(b) The graduate education shall have included 30 semester hours of coursework in the applicant's specialty. Applicants possessing only a master of science degree shall have the equivalent of one year of full-time, directed study or training in procedures and principles involved in the development, modification, or evaluation of laboratory methods, including training in complex methods applicable to diagnostic laboratory work. Each applicant ~~must~~SHALL have had one year of training in his or her specialty in a clinical laboratory acceptable to the department and three years of experience in his or her specialty in a clinical laboratory, two years of which must have been at a supervisory level. The education shall have been obtained in one or more established and reputable institutions maintaining standards equivalent, as determined by the department, to those institutions accredited by an agency acceptable to the department. The department shall determine by examination that the applicant is properly qualified. Examinations, training, or experience requirements for specialty licenses shall cover only the specialty concerned.

(b)(c) The department may issue licenses without examination to applicants who have passed examinations of other states or national accrediting boards whose requirements are equal to or greater than those required by this chapter and regulations established by the department. The evaluation of other state requirements or requirements of national accrediting boards shall be carried out by the department with the assistance of representatives from the licensed groups. This section ~~shall~~DOES not apply to persons who have passed an examination by another state or national accrediting board ~~prior to~~BEFORE the establishment of requirements that are equal to or exceed those of this chapter or regulations of the department.

(c)(d) The department may issue licenses without examination to applicants who had met standards of education and training, defined by regulations, ~~prior to~~BEFORE the date of the adoption of implementing regulations.

(d)(e) The department shall adopt regulations to conform to this section.

SEC. 3.

Section 2554 of the Business and Professions Code is amended to read:

§ 2554.

Each registrant shall conspicuously and prominently display at each registered location the following consumer information:

"Eye doctors are required to provide patients with a copy of their ophthalmic lens prescriptions as follows:

Spectacle prescriptions: Release upon completion of exam.

Contact lens prescriptions: Release upon completion of exam or upon completion of the fitting process.

Patients may take their prescription to any eye doctor or registered dispensing optician to be filled.

Optometrists and registered dispensing opticians are regulated by the State Board of Optometry. The State Board of Optometry receives and investigates all consumer complaints involving the practice of optometry and registered dispensing opticians. Complaints involving a California-licensed optometrist or a registered dispensing optician should be directed to:

California State Board of Optometry

Department of Consumer Affairs

2450 Del Paso Road, Suite 105

Sacramento, CA 95834

Phone: 1-866-585-2666 or (916) 575-7170

Email:

optometry@dca.ca.gov

~~Website~~INTERNET WEB SITE : *www.optometry.ca.gov*"

SEC. 4.

Section 2556.1 of the Business and Professions Code is amended to read:

§ 2556.1.

All licensed optometrists ~~and registered dispensing opticians who are in a colocated setting~~IN A SETTING WITH A REGISTERED DISPENSING OPTICIAN shall report the business relationship to the State Board of Optometry, as determined by the board. The State Board of Optometry shall have the authority to inspect any premises at which the business of a registered dispensing optician is ~~colocated~~CO-LOCATED with the practice of an optometrist, for ~~the~~ purposes of determining compliance with Section 655. The inspection may include the review of any written lease OR agreement between the registered dispensing optician and the optometrist or between the optometrist and the health plan. Failure to comply with the inspection or any request for information by the board may subject the party to disciplinary action. The board shall provide a copy of its inspection results, if applicable, to the Department of Managed Health Care.

SEC. 5.

Section 2715 of the Business and Professions Code is amended to read:

§ 2715.(A)The board shall prosecute all persons guilty of violating ~~the provisions of~~ this chapter.

(B)Except as provided by Section 159.5, the board, in accordance with the ~~provisions of the~~ Civil Service Law, may employ ~~such personnel as~~THE PERSONNEL it deems necessary to carry into effect ~~the provisions of~~ this chapter.

(C)The board shall have and use a seal bearing the name “Board of Registered Nursing.” The board may adopt, amend, or repeal, in accordance with the ~~provisions of Chapter 4.5~~ADMINISTRATIVE PROCEDURE ACT (CHAPTER 3.5 (commencing with Section ~~11371), Part 1, Division 3,~~11340) OF PART 1 OF DIVISION 3 OF Title 2 of the Government ~~Code, such~~CODE), THE rules and regulations ~~as~~THAT may be reasonably necessary to enable it to carry into effect ~~the provisions of~~ this chapter.

SEC. 6.

Section 2759 of the Business and Professions Code is amended to read:

§ 2759.

The board shall discipline the holder of any license, whose default has been entered or who has been heard by the board and found guilty, by any of the following methods:

(a) Suspending judgment.

(b) Placing him OR HER upon probation.

(c) Suspending his OR HER right to practice nursing for a period not exceeding one year.

(d) Revoking his OR HER license.

(e) Taking ~~such~~ other action in relation to disciplining him OR HER as the board in its discretion may deem proper.

SEC. 7.

Section 3020 of the Business and Professions Code is amended to read:

§ 3020.

(a) There shall be established under the State Board of Optometry a dispensing optician committee to advise and make recommendations to the board regarding the regulation of dispensing opticians ~~, spectacle lens dispensers, and contact lens dispensers, registered~~ pursuant to Chapter 5.5 (commencing with Section 2550). The committee shall consist of five members, ~~one~~TWO of whom shall be ~~a registered dispensing optician registered pursuant to Chapter 5.5 (commencing with Section 2550), one of whom shall be a spectacle lens dispenser or contact lens dispenser registered pursuant to Chapter 5.5 (commencing with Section 2550)~~REGISTERED DISPENSING OPTICIANS , two of whom shall be public members, and one of whom shall be a member of the board. Initial appointments to the committee shall be made by the board. The board shall stagger the terms of the initial members appointed. The filling of vacancies on the committee shall be made by the board upon recommendations by the committee.

(b) The committee shall be responsible for:

(1) Recommending registration standards and criteria for the registration of dispensing opticians~~, nonresident contact lens sellers, spectacle lens dispensers, and contact lens dispensers~~.

(2) Reviewing ~~of~~ the disciplinary guidelines relating to registered dispensing opticians~~, nonresident contact lens sellers, spectacle lens dispensers, and contact lens dispensers~~.

(3) Recommending to the board changes or additions to regulations adopted pursuant to Chapter 5.5 (commencing with Section 2550).

(4) Carrying out and implementing all responsibilities and duties imposed upon it pursuant to this chapter or as delegated to it by the board.

(c) The committee shall meet at least twice a year and as needed in order to conduct its business.

(d) Recommendations by the committee regarding scope of practice or regulatory changes or additions shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the committee may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation, which shall be provided by the board within 30 days of the request.

(e)

After the initial appointments by the board pursuant to subdivision (a), the Governor shall appoint the registered dispensing optician members and the public members. The committee shall submit a recommendation to the board regarding which board member should be appointed to serve on the committee, and the board shall appoint the member to serve. Committee members shall serve a term of four years except for the initial staggered terms. A member may be reappointed, but no person shall serve as a member of the committee for more than two consecutive terms.

~~(f)The amendments to this section by the act adding this subdivision apply as of January 1, 2016.~~

SEC. 8.

Section 4430 of the Business and Professions Code is amended to read:

§ 4430.

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

(a) "Carrier" means a health care service plan, as defined in *Section 1345 of the Health and Safety Code*, or a health insurer that issues policies of health insurance, as defined in *Section 106 of the Insurance Code*.

(b) "Clerical or recordkeeping error" includes a typographical error, scrivener's error, or computer error in a required document or record.

(c) "Extrapolation" means the practice of inferring a frequency or dollar amount of overpayments, underpayments, nonvalid claims, or other errors on any portion of claims submitted, based on the frequency or dollar amount of overpayments, underpayments, nonvalid claims, or other errors actually measured in a sample of claims.

(d) "Health benefit plan" means any plan or program that provides, arranges, pays for, or reimburses the cost of health benefits. "Health benefit plan" includes, but is not limited to, a health care service plan contract issued by a health care service plan, as defined in *Section 1345 of the Health and Safety Code*, and a policy of health insurance, as defined in *Section 106 of the Insurance Code*, issued by a health insurer.

(e) "Maximum allowable cost" means the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for the cost of a drug.

(f) "Maximum allowable cost list" means a list of drugs for which a maximum allowable cost has been established by a pharmacy benefit manager.

(g) "Obsolete" means a drug that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

(h) "Pharmacy" has the same meaning as provided in Section 4037.

(i) "Pharmacy audit" means an audit, either onsite or remotely, of any records of a pharmacy conducted by or on behalf of a carrier or a pharmacy benefits manager, or a representative thereof, for prescription drugs that were dispensed by that pharmacy to beneficiaries of a health benefit plan pursuant to a contract with the health benefit plan or the issuer or administrator thereof. "Pharmacy audit" does not include a concurrent review or desk audit that occurs within three business days of transmission of a claim, or a concurrent review or desk audit ~~where no~~IF A chargeback or recoupment is NOT demanded.

(j) "Pharmacy benefit manager" means a person, business, or other entity that, pursuant to a contract or under an employment relationship with a carrier, health benefit plan sponsor, or other third-party payer, either directly or through an intermediary, manages the prescription drug coverage provided by the carrier, plan sponsor, or other third-party payer, including, but not limited to, the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

SEC. 9.

Section 6026.7 of the Business and Professions Code, as added by Section 5 of Chapter 537 of the Statutes of 2015, is amended to read:

§ 6026.7.

(a) The State Bar is subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code*) and all meetings of the State Bar are subject to the Bagley-Keene Open Meeting Act.

(b) Notwithstanding any other law, the Bagley-Keene Open Meeting Act shall not apply to the COMMISSION ON Judicial Nominees Evaluation ~~Commission~~ or the Committee of Bar Examiners.

(c) This section shall become operative on April 1, 2016.

SEC. 10.

Section 6360 of the Business and Professions Code is amended to read:

§ 6360.(A)A law library established under this chapter shall be free to the judiciary, to state and county officials, to members of the State Bar OF CALIFORNIA , and to all residents of the county, for the examination of books and other publications at the library or its branches.

(B)The board of law library trustees may permit the removal of ~~such~~THE books and other publications from the library and its branches as it considers proper, subject to ~~such~~THOSE rules, and, in its discretion, the giving of ~~such~~ security, as it may provide to ensure the safekeeping and prompt return thereof, but ~~no~~ security shall NOT be required of members of the judiciary or county officials. The board may provide for the levying of fines and charges for violation of the rules, and may make charges for special services, such as the making of photocopies of pages of library books, electronic delivery, messenger and other delivery services, educational programs, special events, and provision of supplies or food services.

(C)The board of law library trustees may require persons other than members of the judiciary, county officials, and members of the bar resident in the county, to pay ~~such~~ dues as the board may fix for the privilege of removing books and other publications from the library. With the approval of the board of supervisors, the board of law library trustees may charge individual members of the bar resident in the county fees for the removal of books and other publications from the library. These fees shall not exceed the cost of providing the service.

SEC. 11.

Section 6410.5 of the Business and Professions Code is amended to read:

§ 6410.5.

(a) It is unlawful for any legal document assistant or unlawful detainer assistant, in the first contact with a prospective client of legal document or unlawful detainer assistant services, to enter into a contract or agreement for services or accept any compensation unless the legal document assistant or the unlawful detainer assistant states orally, clearly, affirmatively, and expressly all of the following, before making any other statement, except statements required by law in telephonic or home solicitations, and a greeting, or asking the prospective client any questions:

(1) The identity of the person making the solicitation.

(2) The trade name of the person represented by the person making the solicitation, if any.

(3) The kind of services being offered for sale.

(4) The statement: “I am not an attorney” and, if the person offering legal document assistant or unlawful detainer assistant services is a partnership or a corporation, or uses a fictitious business name, “[name] is not a law firm. I/we cannot represent you in court, advise you about your legal rights or the law, or select legal forms for you.”

(5) The county in which the legal document assistant or unlawful detainer assistant is registered and his or her registration number.

(6) The expiration date of the legal document assistant's or unlawful detainer assistant's current registration period.

(b)

After the legal document assistant or unlawful detainer assistant makes the oral statements required pursuant to subdivision (a), and before the legal document assistant or unlawful detainer assistant enters into a contract or agreement for services or ~~accept~~ACCEPTS any compensation, the legal document assistant or unlawful detainer assistant shall provide the prospective client with a "Notice to Consumer" set forth below. After allowing the prospective client time to read the notice, the legal document assistant or unlawful detainer assistant shall ask the prospective client to sign and date the notice. If the first contact is not in person, the legal document assistant or unlawful detainer assistant shall provide the notice to the prospective client at the first in-person meeting or mail the notice to the prospective client before entering into a contract or agreement for services or accepting any compensation. The notice shall be set forth in black, bold, 12-point type on a separate, white, 81/2 by 11 inch sheet of paper ~~which~~THAT contains no other print or graphics, and shall be in the ~~following~~ form SET FORTH BELOW . The notice shall contain only the appropriate name or other designation from those indicated in brackets below. At the time a prospective client signs the notice and before that prospective client is offered any contract or agreement for signature, the legal document assistant or unlawful detainer assistant shall give the prospective client a clearly legible copy of the signed notice. A legal document assistant or unlawful detainer assistant shall not ask or require a prospective client or a client to sign any other form of acknowledgment regarding this notice.

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(c) The legal document assistant or unlawful detainer assistant shall be responsible for translating, if necessary, the "Notice to Consumer" required pursuant to subdivision (b) into the language principally used in any oral sales presentation or negotiation.

SEC. 12.

Section 7541.1 of the Business and Professions Code is amended to read:

§ 7541.1.

(a) Notwithstanding any other law, experience for purposes of taking the examination for licensure as a private investigator shall be limited to those activities actually performed in connection with investigations, as ~~defined~~DESCRIBED in Section 7521, and only if those activities are performed by persons who are employed or managed in the following capacities:

(1) Sworn law enforcement officers possessing powers of arrest and employed by agencies in the federal, state, or local government.

(2) Military police of the ~~armed forces~~ARMED FORCES of the United States or the National Guard.

(3) An insurance adjuster or ~~their~~ITS employees subject to Chapter 1 (commencing with *Section 14000) of Division 5 of the Insurance Code*.

(4) Persons employed by a private investigator who are duly licensed in accordance with this chapter, or managed by a qualified manager in accordance with Section 7536.

(5) Persons employed by repossessors duly licensed in accordance with Chapter 11 (commencing with Section 7500), only to the extent that those persons are routinely and regularly engaged in the location of debtors or the location of personal property ~~utilizing~~USING methods commonly known as "skip tracing." For purposes of this section, only that experience acquired in ~~that~~ skip tracing shall be credited toward qualification to take the examination.

(6) Persons duly trained and certified as an arson investigator and employed by a public agency engaged in fire suppression.

(7) Persons trained as investigators and employed by a public defender to conduct investigations.

(b) For purposes of Section 7541, persons possessing an associate of arts degree in police science, criminal law or justice from an accredited college shall be credited with 1,000 hours of experience in investigative activities.

(c) The following activities shall not be deemed to constitute acts of investigation for purposes of experience toward licensure:

(1) The serving of legal process or other documents.

(2) Activities relating to the search for heirs or similar searches which involve only a search of public records or other reference sources in the public domain.

(3) The transportation or custodial attendance of persons in the physical custody of a law enforcement agency.

(4) The provision of bailiff or other security services to a court of law.

(5) The collection or attempted collection of debts by telephone or written solicitation after the debtor has been located.

(6) The repossession or attempted repossession of personal property after that property has been located and identified.

(d) ~~Where~~IF the activities of employment of an applicant include those which qualify as bona fide experience as stated in this section as well as those which do not qualify, the director may, by delegation to the bureau, determine and apportion that percentage of experience for which ~~any~~AN applicant is entitled to credit.

SEC. 13.

Section 7685 of the Business and Professions Code is amended to read:

§ 7685.

(a)

(1) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, ~~which~~THAT may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale.

(2) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, ~~prior to~~BEFORE the drafting of any contract, a copy of any preneed agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(3) The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by ~~any~~AN individual. Prices of caskets and other identifying features such as thickness

of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, shall be provided over the telephone, if requested.

(b)

(1) Each licensed funeral establishment that maintains an Internet Web site shall post on its Internet Web site the list of funeral goods and services that are required to be included in the establishment's general price list, pursuant to federal rule, and a statement that the general price list is available upon request.

(2) Information posted pursuant to paragraph (1) shall be provided by a link from the ~~homepage of the~~ Internet Web site HOMEPAGE with a word or combination of words, including, but not limited to, "goods," "merchandise," "products," or "services."

(3) An establishment that posts on its Internet Web site ~~home page~~HOMEPAGE the words "price information" or a similar phrase that includes the word "price," with a link that leads to the establishment's general price list, need not comply with paragraphs (1) or (2).

(4) ~~Nothing in~~ This subdivision shall NOT be construed to affect an establishment's obligations under federal or state law effective ~~prior to~~BEFORE January 1, 2013.

(5) This subdivision shall become operative on January 1, 2013.

SEC. 14.

*Section 7818 of the Business and Professions Code*is amended to read:

§ 7818.

The board, pursuant to the provisions contained in Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*, may adopt, amend, or repeal rules and regulations to carry out ~~the provisions of~~ this chapter.

SEC. 15.

*Section 19351 of the Business and Professions Code*is amended to read:

§ 19351.

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

(b)

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

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

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

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

(d)

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

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

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

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

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

SEC. 16.

Section 19861 of the Business and Professions Code is amended to read:

§ 19861.(A)Notwithstanding subdivision ~~(i)~~(J) of Section 19801, the commission shall not deny a license to a gambling establishment solely because it is not open to the public, ~~provided that~~IF all of the following are true:

(a)(1) The gambling establishment is situated in a local jurisdiction that has an ordinance allowing only private clubs, the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and it met all applicable state and local gaming registration requirements~~;~~.

(b)(2) The gambling establishment consists of no more than five gaming tables~~;~~.

(c)(3) Video recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed-circuit television cameras, and these recordings are retained for a period of 30 days and are made available for review by the department upon request~~; and~~.

~~(d)~~(4)The gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997. (B)A gambling establishment meeting ~~these~~THE criteria SET FORTH IN SUBDIVISION (A) , in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until November 30, 2003, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19961 and 19962, authorizing the operation of gambling establishments that are open to the public. The commission shall adopt regulations implementing this section. ~~Prior to~~BEFORE the commission's issuance of a license to a

private club, the department shall ensure that the ownership of the gambling establishment has remained constant since January 1, 1998, and the operation of the gambling establishment has not been leased to ~~any~~A third party.

SEC. 17.

Section 48a of the Civil Code is amended to read:

§ 48a.

1.(a) In any action for damages for the publication of a libel in a daily or weekly news publication, or of a slander by radio broadcast, plaintiff shall ONLY recover ~~no more than~~ special damages unless a correction ~~be demanded and be~~IS DEMANDED AND IS not published or broadcast, as ~~hereinafter~~ provided IN THIS SECTION . Plaintiff shall serve upon the publisher ~~,~~ at the place of publication, or broadcaster at the place of broadcast, a written notice specifying the statements claimed to be libelous and demanding that ~~the same be corrected. Said~~THOSE STATEMENTS BE CORRECTED. THE notice and demand must be served within 20 days after knowledge of the publication or broadcast of the statements claimed to be libelous.

2.(b) If a correction ~~be demanded within said period and be~~IS DEMANDED WITHIN 20 DAYS AND IS not published or broadcast in substantially as conspicuous a manner in ~~said~~THE SAME daily or weekly news publication, or on ~~said~~THE SAME broadcasting station as were the statements claimed to be libelous, in a regular issue thereof published or broadcast within three weeks after ~~such~~ service, plaintiff, if he OR SHE pleads and proves ~~such~~ notice, demand and failure to correct, and if his OR HER cause of action ~~be~~IS maintained, may recover general, special, and exemplary damages~~; provided that no exemplary damages may~~. EXEMPLARY DAMAGES SHALL NOT be recovered unless the plaintiff ~~shall prove~~PROVES that defendant made the publication or broadcast with actual malice and then only in the discretion of the court or jury, and actual malice shall not be inferred or presumed from the publication or broadcast.

3.(c) A correction published or broadcast in substantially as conspicuous a manner in ~~said~~THE daily or weekly news publication, or on ~~said~~THE broadcasting station as the statements claimed in the complaint to be libelous, ~~prior to~~BEFORE receipt of a demand ~~therefor~~FOR CORRECTION , shall be of the same force and effect as though ~~such~~THE correction had been published or broadcast within three weeks after a demand ~~therefor~~FOR CORRECTION .

4.(d) As used ~~herein, the terms "general damages," "special damages" "exemplary damages" and "actual malice," are defined as follows~~IN THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY :

(a)(1) "General damages" ~~are~~MEANS damages for loss of reputation, shame, mortification, and hurt feelings.

(b)(2) "Special damages" ~~are all damages which~~MEANS ALL DAMAGES THAT plaintiff alleges and proves that he OR SHE has suffered in respect to his OR HER property, business, trade, profession, or occupation, including ~~such~~THE amounts of money ~~as~~ the plaintiff alleges and proves he OR SHE has expended as a result of the alleged libel, and no other.

(c)(3) "Exemplary damages" ~~are damages which~~MEANS DAMAGES THAT may in the discretion of the court or jury be recovered in addition to general and special damages for the sake of example and by way of punishing a defendant who has made the publication or broadcast with actual malice.

(d)(4)

"Actual malice" ~~is~~MEANS that state of mind arising from hatred or ill will toward the plaintiff; provided, however, that ~~such~~ a state of mind occasioned by a good faith belief on the part of the defendant in the truth of the libelous publication or broadcast at the time it is published or broadcast shall not constitute actual malice.

~~5.~~(5)~~For purposes of this section, a~~"Daily or weekly news publication" means a publication, either in print or electronic form, that contains news on matters of public concern and that publishes at least once a week.

SEC. 18.

Section 52.5 of the Civil Code is amended to read:

§ 52.5.

(a) A victim of human trafficking, as defined in *Section 236.1 of the Penal Code*, may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs.

(b) In addition to the remedies specified in this section, in an action under subdivision (a), the plaintiff may be awarded up to three times his or her actual damages or ten thousand dollars ($10,000), whichever is greater. In addition, punitive damages may ~~also~~ be awarded upon proof of the defendant's malice, oppression, fraud, or duress in committing the act of human trafficking.

(c) An action brought pursuant to this section shall be commenced within seven years of the date on which the trafficking victim was freed from the trafficking situation or, if the victim was a minor when the act of human trafficking against the victim occurred, within 10 years after the date the plaintiff attains the age of majority.

(d) If a person entitled to sue is under a disability at the time the cause of action accrues so that it is impossible or impracticable for him or her to bring an action, the time of the disability is not part of the time limited for the commencement of the action. Disability will toll the running of the statute of limitations for this action.

(1) Disability includes being a minor, lacking legal capacity to make decisions, imprisonment, or other incapacity or incompetence.

(2) The statute of limitations shall not run against a plaintiff who is a minor or who lacks the legal competence to make decisions simply because a guardian ad litem has been appointed. A guardian ad litem's failure to bring a plaintiff's action within the applicable limitation period will not prejudice the plaintiff's right to ~~do so~~BRING AN ACTION after his or her disability ceases.

(3) A defendant is estopped from asserting a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action, or due to threats made by the defendant causing ~~duress upon~~ the plaintiff DURESS .

(4) The suspension of the statute of limitations due to disability, lack of knowledge, or estoppel applies to all other related claims arising out of the trafficking situation.

(5) The running of the statute of limitations is postponed during the pendency of criminal proceedings against the victim.

(e) The running of the statute of limitations may be suspended if a person entitled to sue could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(f) A prevailing plaintiff may also be awarded reasonable attorney's fees and litigation costs including, but not limited to, expert witness fees and expenses as part of the costs.

(g) Restitution paid by the defendant to the victim shall be credited against a judgment, award, or settlement obtained pursuant to an action under this section. A judgment, award, or settlement

obtained pursuant to an action under this section ~~shall be~~IS subject to *Section 13963 of the Government Code*.

(h) A civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim. As used in this section, a "criminal action" includes investigation and prosecution, and is pending until a final adjudication in the trial court or dismissal.

SEC. 19.

Section 1770 of the Civil Code is amended to read:

§ 1770.

(a) The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or ~~which~~THAT results in the sale or lease of goods or services to any consumer are unlawful:

(1) Passing off goods or services as those of another.

(2) Misrepresenting the source, sponsorship, approval, or certification of goods or services.

(3) Misrepresenting the affiliation, connection, or association with, or certification by, another.

(4) Using deceptive representations or designations of geographic origin in connection with goods or services.

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities ~~which~~THAT they do not have or that a person has a sponsorship, approval, status, affiliation, or connection ~~which~~THAT he or she does not have.

(6) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(9) Advertising goods or services with intent not to sell them as advertised.

(10) Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(11) Advertising furniture without clearly indicating that it is unassembled if that is the case.

(12) Advertising the price of unassembled furniture without clearly indicating the assembled price of that furniture if the same furniture is available assembled from the seller.

(13) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions.

(14) Representing that a transaction confers or involves rights, remedies, or obligations ~~which~~THAT it does not have or involve, or ~~which~~THAT are prohibited by law.

(15) Representing that a part, replacement, or repair service is needed when it is not.

(16) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.

(17) Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(18) Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction with a consumer.

(19) Inserting an unconscionable provision in the contract.

(20) Advertising that a product is being offered at a specific price plus a specific percentage of that price unless (A) the total price is set forth in the advertisement, which may include, but is not limited to, shelf tags, displays, and media advertising, in a size larger than any other price in that advertisement, and (B) the specific price plus a specific percentage of that price represents a markup from the seller's costs or from the wholesale price of the product. This subdivision shall not apply to in-store advertising by businesses ~~which~~THAT are open only to members or cooperative organizations organized pursuant to Division 3 (commencing with *Section 12000) of Title 1 of the Corporations Code* where more than 50 percent of purchases are made at the specific price set forth in the advertisement.

(21) Selling or leasing goods in violation of Chapter 4 (commencing with Section 1797.8) of Title 1.7.

(22)

(A) Disseminating an unsolicited prerecorded message by telephone without an unrecorded, natural voice first informing the person answering the telephone of the name of the caller or the organization being represented, and either the address or the telephone number of the caller, and without obtaining the consent of that person to listen to the prerecorded message.

(B) This subdivision does not apply to a message disseminated to a business associate, customer, or other person having an established relationship with the person or organization making the call, to a call for the purpose of collecting an existing obligation, or to any call generated at the request of the recipient.

(23)

(A) The home solicitation, as defined in subdivision (h) of Section 1761, of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for ~~the~~ purposes of paying for home improvements and where the transaction is part of a pattern or practice in violation of either subsection (h) or (i) of Section 1639 of Title 15 of the United States Code or paragraphs (1), (2), and (4) of subdivision (a) of *Section 226.34 of Title 12 of the Code of Federal Regulations*.

(B) A third party shall not be liable under this subdivision unless ~~(1)~~(I) there was an agency relationship between the party who engaged in home solicitation and the third party, or ~~(2)~~(II) the third party had actual knowledge of, or participated in, the unfair or deceptive transaction. A third party who is a holder in due course under a home solicitation transaction shall not be liable under this subdivision.

(24)

(A) Charging or receiving an unreasonable fee to prepare, aid, or advise any prospective applicant, applicant, or recipient in the procurement, maintenance, or securing of public social services.

(B) For purposes of this paragraph, the following definitions shall apply:

(i) "Public social services" means those activities and functions of state and local government administered or supervised by the State Department of Health Care Services, the State Department of Public Health, or the State Department of Social Services, and involved in providing aid or services, or both, including health care services, and medical assistance, to those persons who, because of their economic

circumstances or social condition, are in need of that aid or those services and may benefit from them.

(ii) "Public social services" also includes activities and functions administered or supervised by the United States Department of Veterans Affairs or the California Department of Veterans Affairs involved in providing aid or services, or both, to veterans, including pension benefits.

(iii) "Unreasonable fee" means a fee that is exorbitant and disproportionate to the services performed. Factors to be considered, ~~when~~IF appropriate, in determining the reasonableness of a fee, are based on the circumstances existing at the time of the service and shall include, but not be limited to, all of the following:

(I) The time and effort required.

(II) The novelty and difficulty of the services.

(III) The skill required to perform the services.

(IV) The nature and length of the professional relationship.

(V) The experience, reputation, and ability of the person providing the services.

(C) This paragraph shall not apply to attorneys licensed to practice law in California, who are subject to the California Rules of Professional Conduct and to the mandatory fee arbitration provisions of Article 13 (commencing with *Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code*, when the fees charged or received are for providing representation in administrative agency appeal proceedings or court proceedings for purposes of procuring, maintaining, or securing public social services on behalf of a person or group of persons.

(25)

(A) Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that does not include the following statement in the same type size and font as the term "veteran" or any variation of that term:

(i) "I am not authorized to file an initial application for Veterans' Aid and Attendance benefits on your behalf, or to represent you before the Board of Veterans' Appeals within the United States Department of Veterans Affairs in any proceeding on any matter, including an application for such benefits. It would be illegal for me to accept a fee for preparing that application on your behalf." The requirements of this clause do not apply to a person licensed to act as an agent or attorney in proceedings before the Agency of Original Jurisdiction and the Board of Veterans' Appeals within the United States Department of Veterans Affairs when that person is offering those services at the advertised event.

(ii) The statement in clause (i) shall also be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans' benefits or entitlements.

(B)

Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements ~~which~~THAT is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries that does not include the following statement, in the same type size and font as the term "veteran" or the variation of that term:

"This event is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries. None of the insurance products promoted at this sales event are endorsed by those organizations, all of which offer free advice to veterans about how to qualify and apply for benefits."

(i) The statement in this subparagraph shall be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans' benefits or entitlements.

(ii) The requirements of this subparagraph shall not apply in a case where the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries have granted written permission to the advertiser or promoter for the use of its name, symbol, or insignia to advertise or promote the event, presentation, seminar, workshop, or other public gathering.

(26) Advertising, offering for sale, or selling a financial product that is illegal under state or federal law, including any cash payment for the assignment to a third party of the consumer's right to receive future pension or veteran's benefits.

(27) Representing that a product is made in California by using a Made in California label created pursuant to *Section 12098.10 of the Government Code*, unless the product complies with *Section 12098.10 of the Government Code*.

(b)

(1) It is an unfair or deceptive act or practice for a mortgage broker or lender, directly or indirectly, to use a home improvement contractor to negotiate the terms of any loan that is secured, whether in whole or in part, by the residence of the borrower and ~~which~~THAT is used to finance a home improvement contract or any portion of a home improvement contract. For purposes of this subdivision, "mortgage broker or lender" includes a finance lender licensed pursuant to the California Finance Lenders Law (Division 9 (commencing with *Section 22000) of the Financial Code*), a residential mortgage lender licensed pursuant to the California Residential Mortgage Lending Act (Division 20 (commencing with *Section 50000) of the Financial Code*), or a real estate broker licensed under the Real Estate Law (Division 4 (commencing with *Section 10000) of the Business and Professions Code*).

(2) This section shall not be construed to either authorize or prohibit a home improvement contractor from referring a consumer to a mortgage broker or lender by this subdivision. However, a home improvement contractor may refer a consumer to a mortgage lender or broker if that referral does not violate *Section 7157 of the Business and Professions Code* or any other law. A mortgage lender or broker may purchase an executed home improvement contract if that purchase does not violate *Section 7157 of the Business and Professions Code* or any other law. Nothing in this paragraph shall have any effect on the application of Chapter 1 (commencing with Section 1801) of Title 2 to a home improvement transaction or the financing of a home improvement transaction.

SEC. 20.

*Section 1798.29 of the Civil Code*is amended to read:

§ 1798.29.

(a) ~~Any~~AN agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) ~~Any~~AN agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) ~~Any~~AN agency that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled “Notice of Data Breach,” and shall present the information described in paragraph (2) under the following headings: “What Happened,” “What Information Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More Information.” Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (i), use of the model security breach notification form prescribed below, or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision. Click here to view image.

(E) For an electronic notice described in paragraph (2) of subdivision (i), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, ~~then~~ any of the following:

(i) The date of the breach~~,~~.

(ii) The estimated date of the breach~~, or~~.

(iii) The date range within which the breach occurred.

(D) The ~~notification shall also include the date of the~~DATE OF notice.

(D)(E) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E)(F) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F)(G) The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number or a driver's license or California identification card number.

(3) At the discretion of the agency, the security breach notification may also include any of the following:

(A) Information about what the agency has done to protect individuals whose information has been breached.

(B) Advice on steps that the person whose information has been breached may take to protect himself or herself.

(e) ~~Any~~AN agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of ~~that~~THE security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of ~~a~~THE security breach notification shall not be deemed to be within subdivision (f) of *Section 6254 of the Government Code*.

(f) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, ~~provided that~~IF the personal information is not used or subject to further unauthorized disclosure.

(g) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, ~~when~~IF either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number or California identification card number.

(C) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(2) A user name or email address, in combination with a password or security question and answer that would permit access to an online account.

(h)

(1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, ~~any~~A unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(4) For purposes of this section, "encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(i) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), ~~or~~ that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the agency has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the agency's Internet Web site~~page~~, if the agency maintains one. For purposes of this subparagraph, conspicuous posting on the agency's Internet Web site means providing a link to the notice on the home page or first significant page after entering the Internet Web site that is in larger type than the surrounding text, ~~or~~ in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media and the Office of Information Security within the Department of Technology.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for an online account, and no other personal information defined in paragraph (1) of subdivision (g), the agency may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the agency and all other online accounts for which the person uses the same user name or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for login credentials of an email account furnished by the agency, the agency shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an Internet Protocol address or online location from which the agency knows the resident customarily accesses the account.

(j) Notwithstanding subdivision (i), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification

requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(k) Notwithstanding the exception specified in paragraph (4) of subdivision (b) of Section 1798.3, for purposes of this section, “agency” includes a local agency, as defined in subdivision (a) of *Section 6252 of the Government Code*.

SEC. 21.

Section 1798.82 of the Civil Code is amended to read:

§ 1798.82.

(a) A person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose a breach of the security of the system following discovery or notification of the breach in the security of the data to a resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) A person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of the breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made promptly after the law enforcement agency determines that it will not compromise the investigation.

(d) A person or business that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled “Notice of Data Breach,” and shall present the information described in paragraph (2) under the following headings: “What Happened,” “What Information Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More Information.” Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (j), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision. Click here to view image.

(E) For an electronic notice described in paragraph (2) of subdivision (j), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting person or business subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, ~~then~~ any of the following:

(i) The date of the breach~~,~~.

(ii) The estimated date of the breach~~, or~~.

(iii) The date range within which the breach occurred.

(D) The ~~notification shall also include the date of the~~DATE OF notice.

(D)(E) Whether notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E)(F) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F)(G) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed a social security number or a driver's license or California identification card number.

(G)(H) If the person or business providing the notification was the source of the breach, an offer to provide appropriate identity theft prevention and mitigation services, if any, shall be provided at no cost to the affected person for not less than 12 months along with all information necessary to take advantage of the offer to any person whose information was or may have been breached if the breach exposed or may have exposed personal information defined in subparagraphs (A) and (B) of paragraph (1) of subdivision (h).

(3) At the discretion of the person or business, the security breach notification may also include any of the following:

(A) Information about what the person or business has done to protect individuals whose information has been breached.

(B) Advice on steps that the person whose information has been breached may take to protect himself or herself.

(e) A covered entity under the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have complied with the notice requirements in subdivision (d) if it has complied completely with Section 13402(f) of the federal Health Information Technology for Economic and Clinical Health Act (*Public Law 111-5*). ~~However, nothing in~~This subdivision shall NOT be construed to exempt a covered entity from any other provision of this section.

(f) A person or business that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of ~~that~~THE security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of ~~a~~THE security breach notification shall not be deemed to be within subdivision (f) of *Section 6254 of the Government Code*.

(g) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is

not a breach of the security of the system, ~~provided that~~IF the personal information is not used or subject to further unauthorized disclosure.

(h) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, ~~when~~IF either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number or California identification card number.

(C) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(2) A user name or email address, in combination with a password or security question and answer that would permit access to an online account.

(i)

(1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, ~~any~~A unique identifier used by a health insurer to identify the individual, or ~~any~~ information in an individual's application and claims history, including any appeals records.

(4) For purposes of this section, "encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(j) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), ~~or~~ that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the person or business has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the Internet Web site ~~page~~ of the person or business, if the person or business maintains one. For purposes of this subparagraph, conspicuous posting on the person's or business's Internet Web site means providing a link to the notice on the home page or first significant page after entering the Internet Web site that is in larger type than the surrounding text, ~~or~~ in contrasting type,

font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (h) for an online account, and no other personal information defined in paragraph (1) of subdivision (h), the person or business may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached promptly to change his or her password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same user name or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (h) for login credentials of an email account furnished by the person or business, the person or business shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online ~~when~~IF the resident is connected to the online account from an Internet Protocol address or online location from which the person or business knows the resident customarily accesses the account.

(k) Notwithstanding subdivision (j), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

SEC. 22.

Section 437c of the Code of Civil Procedure is amended to read:

§ 437c.

(a)

(1) A party may move for summary judgment in ~~any~~AN action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding. The motion may be made at any time after 60 days have elapsed since the general appearance in the action or proceeding of each party against whom the motion is directed or at any earlier time after the general appearance that the court, with or without notice and upon good cause shown, may direct.

(2) Notice of the motion and supporting papers shall be served on all other parties to the action at least 75 days before the time appointed for hearing. ~~However,~~If the notice is served by mail, the required 75-day period of notice shall be increased by 5 days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States~~, and~~. If the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required 75-day period of notice shall be increased by two court days.

(3) The motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise. The filing of the motion shall not extend the time within which a party must otherwise file a responsive pleading.

(b)

(1) The motion shall be supported by affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken. The supporting papers shall include a separate statement setting forth plainly and concisely all material facts that the moving party contends are undisputed. Each of the material facts stated shall be followed by a reference to the supporting evidence. The failure to comply with this requirement of a separate statement may in the court's discretion constitute a sufficient ground for ~~denial of~~DENYING the motion.

(2) An opposition to the motion shall be served and filed not less than 14 days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. The opposition, where appropriate, shall consist of affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken.

(3) The opposition papers shall include a separate statement that responds to each of the material facts contended by the moving party to be undisputed, indicating ~~whether~~IF the opposing party agrees or disagrees that those facts are undisputed. The statement also shall set forth plainly and concisely any other material facts ~~that~~ the opposing party contends are disputed. Each material fact contended by the opposing party to be disputed shall be followed by a reference to the supporting evidence. Failure to comply with this requirement of a separate statement may constitute a sufficient ground, in the court's discretion, for granting the motion.

(4) A reply to the opposition shall be served and filed by the moving party not less than five days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise.

(5) Evidentiary objections not made at the hearing shall be deemed waived.

(6) Except for subdivision (c) of Section 1005 relating to the method of service of opposition and reply papers, Sections 1005 and 1013, extending the time within which a right may be exercised or an act may be done, do not apply to this section.

(7) ~~A~~AN incorporation by reference of a matter in the court's file shall set forth with specificity the exact matter to which reference is being made and shall not incorporate the entire file.

(c) The motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. In determining ~~whether~~IF the papers show that there is no triable issue as to any material fact, the court shall consider all of the evidence set forth in the papers, except ~~that~~THE EVIDENCE to which objections have been made and sustained by the court, and all inferences reasonably deducible from the evidence, except summary judgment ~~may~~SHALL not be granted by the court based on inferences reasonably deducible from the evidence if contradicted by other inferences or evidence that raise a triable issue as to any material fact.

(d) Supporting and opposing affidavits or declarations shall be made by a person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavits or declarations. An objection based on the failure to comply with the requirements of this subdivision, if not made at the hearing, shall be deemed waived.

(e) If a party is otherwise entitled to ~~a~~ summary judgment pursuant to this section, summary judgment ~~may~~SHALL not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment, except that summary judgment may be denied in the discretion of the court if the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to that fact; or if a material fact is an individual's state of mind, or lack thereof, and that fact is sought to be established solely by the individual's affirmation thereof.

(f)

(1) A party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if ~~that~~THE party contends that the cause of action has no merit~~or~~, that there is no affirmative defense ~~thereto, or~~TO THE CAUSE OF ACTION, that there is no merit to an affirmative defense as to any cause of action, ~~or both, or~~ that there is no merit to a claim for damages, as specified in *Section 3294 of the Civil Code*, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs. A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty.

(2) A motion for summary adjudication may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment. ~~However, a party may~~A PARTY SHALL not move for summary judgment based on issues asserted in a prior motion for summary adjudication and denied by the court unless that party establishes, to the satisfaction of the court, newly discovered facts or circumstances or a change of law supporting the issues reasserted in the summary judgment motion.

(g) Upon the denial of a motion for summary judgment on the ground that there is a triable issue as to one or more material facts, the court shall, by written or oral order, specify one or more material facts raised by the motion ~~as to which~~THAT the court has determined there exists a triable controversy. This determination shall specifically refer to the evidence proffered in support of and in opposition to the motion that indicates that a triable controversy exists. Upon the grant of a motion for summary judgment on the ground that there is no triable issue of material fact, the court shall, by written or oral order, specify the reasons for its determination. The order shall specifically refer to the evidence proffered in support of and, if applicable, in opposition to the motion ~~which indicates~~ that INDICATES no triable issue exists. The court shall also state its reasons for any other determination. The court shall record its determination by court reporter or written order.

(h) If it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication, or both, that facts essential to justify opposition may exist but cannot, for reasons stated, ~~then~~ be presented, the court shall deny the motion, order a continuance to permit affidavits to be obtained or discovery to be had, or make any other order as may be just. The application to continue the motion to obtain necessary discovery may also be made by ex parte motion at any time on or before the date the opposition response to the motion is due.

(i) If, after granting a continuance to allow specified additional discovery, the court determines that the party seeking summary judgment has unreasonably failed to allow the discovery to be conducted, the court shall grant a continuance to permit the discovery to go forward or deny the motion for summary judgment or summary adjudication. This section does not affect or limit the ability of a party to compel discovery under the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4).

(j) If the court determines at any time that an affidavit was presented in bad faith or solely for the purpose of delay, the court shall order the party who presented the affidavit to pay the other party the amount of the reasonable expenses ~~that~~ the filing of the affidavit caused the other party to incur. Sanctions shall not be imposed pursuant to this subdivision except on notice contained in a party's papers or on the court's own noticed motion, and after an opportunity to be heard.

(k) Unless a separate judgment may properly be awarded in the action, a final judgment shall not be entered on a motion for summary judgment before the termination of the action, but the final judgment shall, in addition to any matters determined in the action, award judgment as established by the summary proceeding ~~herein~~ provided for IN THIS SECTION .

(l) In an action arising out of an injury to the person or to property, if a motion for summary judgment is granted on the basis that the defendant was without fault, no other defendant during trial, over plaintiff's objection, may attempt to attribute fault to, or comment on, the absence or involvement of the defendant who was granted the motion.

(m)

(1) A summary judgment entered under this section is an appealable judgment as in other cases. Upon entry of an order pursuant to this section, except the entry of summary judgment, a party may, within 20 days after service upon him or her of a written notice of entry of the order, petition an appropriate reviewing court for a peremptory writ. If the notice is served by mail, the initial period within which to file the petition shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the initial period within which to file the petition shall be increased by two court days. The superior court may, for good cause, and ~~prior to~~BEFORE the expiration of the initial period, extend the time for one additional period not to exceed 10 days.

(2) Before a reviewing court affirms an order granting summary judgment or summary adjudication on a ground not relied upon by the trial court, the reviewing court shall afford the parties an opportunity to present their views on the issue by submitting supplemental briefs. The supplemental ~~briefing~~BRIEFS may include an argument that additional evidence relating to that ground exists, but ~~that~~ the party has not had an adequate opportunity to present the evidence or to conduct discovery on the issue. The court may reverse or remand based upon the supplemental ~~briefing~~BRIEFS to allow the parties to present additional evidence or to conduct discovery on the issue. If the court fails to allow supplemental ~~briefing~~BRIEFS , a rehearing shall be ordered upon timely petition of a party.

(n)

(1) If a motion for summary adjudication is granted, at the trial of the action, the cause or causes of action within the action, affirmative defense or defenses, claim for damages, or issue or issues of duty as to the motion ~~which~~THAT has been granted shall be deemed to be established and the action shall proceed as to the cause or causes of action, affirmative defense or defenses, claim for damages, or issue or issues of duty remaining.

(2) In the trial of the action, the fact that a motion for summary adjudication is granted as to one or more causes of action, affirmative defenses, claims for damages, or issues of duty within the action shall not ~~operate to~~ bar any cause of action, affirmative defense, claim for damages, or issue of duty as to which summary adjudication was either not sought or denied.

(3) In the trial of an action, neither a party, a witness, nor the court shall comment to a jury upon the grant or denial of a motion for summary adjudication.

(o) A cause of action has no merit if either of the following exists:

(1) One or more of the elements of the cause of action cannot be separately established, even if that element is separately pleaded.

(2) A defendant establishes an affirmative defense to that cause of action.

(p) For purposes of motions for summary judgment and summary adjudication:

(1) A plaintiff or cross-complainant has met his or her burden of showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on ~~that~~THE cause of action. Once the plaintiff or cross-complainant has met that burden, the burden shifts to the defendant or cross-defendant to show that a triable issue of one or more material facts exists as to ~~that~~THE cause of action or a defense thereto. The defendant or cross-defendant shall not rely upon the ~~mere~~ allegations or denials of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to ~~that~~THE cause of action or a defense thereto.

(2) A defendant or cross-defendant has met his or her burden of showing that a cause of action has no merit if ~~that~~THE party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to ~~that~~THE cause of action. Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to ~~that~~THE cause of action or a defense thereto. The plaintiff or cross-complainant shall not rely upon the ~~mere~~ allegations or denials of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to ~~that~~THE cause of action or a defense thereto.

(q) In granting or denying a motion for summary judgment or summary adjudication, the court need rule only on those objections to evidence that it deems material to its disposition of the motion. Objections to evidence that are not ruled on for purposes of the motion shall be preserved for appellate review.

(r) This section does not extend the period for trial provided by Section 1170.5.

(s) Subdivisions (a) and (b) do not apply to actions brought pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

(t) Notwithstanding subdivision (f), a party may move for summary adjudication of a legal issue or a claim for damages other than punitive damages that does not completely dispose of a cause of action, affirmative defense, or issue of duty pursuant to this subdivision.

(1)

(A) Before filing a motion pursuant to this subdivision, the parties whose claims or defenses are put at issue by the motion shall submit to the court both of the following:

(i) A joint stipulation stating the issue or issues to be adjudicated.

(ii) A declaration from each stipulating party that the motion will further the interest of judicial economy by decreasing trial time or significantly increasing the likelihood of settlement.

(B) The joint stipulation shall be served on any party to the civil action who is not also a party to the motion.

(2) Within 15 days of receipt of the stipulation and declarations, unless the court has good cause for extending the time, the court shall notify the stipulating parties ~~as to whether~~IF the motion may be filed. In making this determination, the court may consider objections by a nonstipulating party made within 10 days of the submission of the stipulation AND DECLARATIONS .

(3) If the court elects not to allow the filing of the motion, the stipulating parties may request, and upon request the court shall conduct, an informal conference with the stipulating parties to permit further evaluation of the proposed stipulation~~; however,~~. The stipulating parties shall not file additional papers in support of the motion.

(4)

(A) A motion for summary adjudication made pursuant to this subdivision shall contain a statement in the notice of motion that reads substantially similar to the following: “This motion is made pursuant to subdivision (t) of *Section 437c of the Code of Civil Procedure.* The parties to this motion stipulate that the court shall hear this motion and that the resolution of this motion will further the interest of judicial economy by decreasing trial time or significantly increasing the likelihood of settlement.”

(B) The notice of motion shall be signed by counsel for all parties, and by those parties in propria persona, to the motion.

(5) A motion filed pursuant to this subdivision may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment.

(u) For purposes of this section, a change in law does not include a later enacted statute without retroactive application.

SEC. 23.

Section 472a of the Code of Civil Procedure, as added by Section 5 of Chapter 418 of the Statutes of 2015, is amended to read:

§ 472a.

(a) A demurrer is not waived by an answer filed at the same time.

(b) Except as otherwise provided by rule adopted by the Judicial Council, if a demurrer to a complaint or to a cross-complaint is overruled and ~~there is no answer~~AN ANSWER IS NOT filed, the court shall allow an answer to be filed upon such terms as may be just. If a demurrer to the answer is overruled, the action shall proceed as if no demurrer had been interposed, and the facts alleged in the answer shall be considered as denied to the extent mentioned in Section 431.20.

(c) ~~Subject to the limitations imposed by subdivision (e) of Section 430.41,~~If a demurrer is sustained, the court may grant leave to amend the pleading upon any terms as may be just and shall fix the time within which the amendment or amended pleading shall be filed. If a demurrer is stricken pursuant to Section 436 and ~~there is~~ no answer IS filed, the court shall allow an answer to be filed on terms that are just.

(d) If a motion to strike is granted pursuant to Section 436, the court may order that an amendment or amended pleading be filed upon terms it deems proper. If a motion to strike a complaint or cross-complaint, or portion thereof, is denied, the court shall allow the party filing the motion to strike to file an answer.

(e) If a motion to dismiss an action pursuant to Article 2 (commencing with Section 583.210) of Chapter 1.5 of Title 8 is denied, the court shall allow a pleading to be filed.

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

SEC. 24.

*Section 527.6 of the Code of Civil Procedure*is amended to read:

§ 527.6.

(a)

(1) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an order after hearing prohibiting harassment as provided in this section.

(2) A minor, under 12 years of age, accompanied by a duly appointed and acting guardian ad litem, shall be permitted to appear in court without counsel for the limited purpose of requesting or opposing a request for a temporary restraining order or order after hearing, or both, under this section as provided in Section 374.

(b) For purposes of this section:

(1) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or ~~computer~~ email. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety ~~,~~ or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Harassment” is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be ~~such as~~THAT WHICH would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.

(4) “Petitioner” means the person to be protected by the temporary restraining order and order after hearing and, if the court grants the petition, the protected person.

(5) “Respondent” means the person against whom the temporary restraining order and order after hearing are sought and, if the petition is granted, the restrained person.

(6) “Temporary restraining order” and “order after hearing” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls, as described in *Section 653m of the Penal Code*, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner. On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:

(i) Grant the petitioner exclusive care, possession, or control of the animal.

(ii) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(7) “Unlawful violence” is any assault or battery, or stalking as prohibited in *Section 646.9 of the Penal Code*, but ~~shall~~DOES not include lawful acts of self-defense or defense of others.

(c) In the discretion of the court, on a showing of good cause, a temporary restraining order or order after hearing issued under this section may include other named family or household members.

(d) Upon filing a petition for orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides ~~a rule that is inconsistent~~AN INCONSISTENT RULE . The temporary restraining order may include any of the restraining orders described in paragraph (6) of subdivision (b). A temporary restraining order may be issued with or without notice, based on a declaration that, to the satisfaction of the court, shows reasonable proof of harassment of the petitioner by the respondent, and that great or irreparable harm would result to the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court~~, unless~~. IF the petition is filed too late in the day to permit effective review, ~~in which case~~ the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or, if the court extends the time for hearing under subdivision (g), not to exceed 25 days, unless otherwise modified or terminated by the court.

(g) Within 21 days, or, if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition. If ~~no request for temporary orders is~~A REQUEST FOR A TEMPORARY ORDER IS NOT made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(h) The respondent may file a response that explains, excuses, justifies, or denies the alleged harassment, or may file a cross-petition under this section.

(i) At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an order shall issue prohibiting the harassment.

(j)

(1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of ~~not~~NO more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The order may be renewed, upon the request of a party, for a duration of ~~not~~NO more than five additional years, without a showing of any further harassment since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. A request for renewal may be brought ~~at~~ any time within the three months before the ~~expiration of the~~ order EXPIRES .

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(3) If an action is filed for the purpose of terminating or modifying a protective order ~~prior to~~BEFORE the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with *Section 6205) of Division 7 of Title 1 of the Government Code*, by service on the Secretary of State. If the party who is protected by the order cannot be notified ~~prior to~~BEFORE the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive his or her right to notice if he or she is physically present in court and does not challenge the sufficiency of the notice.

(k) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(l) In a proceeding under this section, if there are allegations of unlawful violence or credible threats of violence, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of violence. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of violence and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the

courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(m) Upon the filing of a petition under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.

(o) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(p)

(1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing, or orally at the hearing. The court may also grant a continuance on its own motion.

(2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(q)

(1) If a respondent ~~,~~ named in a restraining order issued after a hearing ~~,~~ has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, ~~no~~ additional proof of service is NOT required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, ~~then~~ the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent available to the court.

(3)

The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

Click here to view form

(r)

(1) Information on a temporary restraining order or order after hearing relating to civil harassment issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to a law enforcement agency having jurisdiction over the residence of the petitioner and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of *Section 6380 of the*

Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of ~~these~~ orders ISSUED UNDER THIS SECTION to law enforcement officers responding to the scene of reported harassment.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for ~~the~~ purposes of this section and for ~~the~~ purposes of *Section 29825 of the Penal Code*.

(s) The prevailing party in ~~any~~AN action brought under this section may be awarded court costs and attorney's fees, if any.

(t) ~~Any~~Willful disobedience of ~~any~~A temporary restraining order or order after hearing granted under this section is punishable pursuant to *Section 273.6 of the Penal Code*.

(u)

(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) ~~Every~~A person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm or ammunition while the protective order is in effect is punishable pursuant to *Section 29825 of the Penal Code*.

(v) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with *Section 1788) of Part 4 of Division 3 of the Civil Code* or by Division 10 (commencing with *Section 6200) of the Family Code*. This section does not preclude a petitioner from using other existing civil remedies.

(w)

(1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section ~~shall be~~IS mandatory.

(2) A temporary restraining order or order after hearing relating to civil harassment issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council ~~of California~~ and that have been approved by the Department of Justice pursuant to subdivision (i) of *Section 6380 of the Family Code*. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(x) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, ~~or~~ stalked the petitioner, or acted or spoken in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order restraining stalking~~or~~, future violence, or threats of violence, in ~~any~~AN action brought pursuant to this section. A fee shall not be paid for a subpoena filed in connection with a petition alleging these acts. A fee shall not be paid for filing a response to a petition alleging these acts.

(y)

(1) Subject to paragraph (4) of subdivision (b) of *Section 6103.2 of the Government Code*, there shall not be a fee for the service of process by a sheriff or marshal of a protective or restraining order to be issued, if either of the following conditions ~~applies~~APPLY :

(A) The protective or restraining order issued pursuant to this section is based upon stalking, as prohibited by *Section 646.9 of the Penal Code*.

(B) The protective or restraining order issued pursuant to this section is based upon unlawful violence or a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

SEC. 25.

*Section 765.030 of the Code of Civil Procedure*is amended to read:

§ 765.030.

If the court determines that the lien or other encumbrance is in violation of Section 765.010, the court shall issue an order striking and releasing the lien or other encumbrance and may award costs and reasonable attorney's fees to the petitioner to be paid by the lien or other encumbrance claimant. If the court determines that the lien or other encumbrance is valid, the court shall issue an order so stating and may award costs and reasonable attorney's fees to the encumbrance claimant to be paid by the petitioner. The court may direct that ~~such an order shall~~AN ORDER ISSUED PURSUANT TO THIS SECTION be recorded.

SEC. 26.

*Section 832 of the Code of Civil Procedure*is amended to read:

§ 832.

For purposes of this chapter, the following definitions apply:

(a) "Basin" has the same meaning as defined in *Section 10721 of the Water Code*.

(b) "Complaint" means a complaint filed in superior court to determine rights to extract groundwater and includes any cross-complaint that initiates a comprehensive adjudication in response to a plaintiff's complaint or other cross-complaint.

(c) "Comprehensive adjudication" means an action filed in superior court to comprehensively determine rights to extract groundwater in a basin.

(d) “Condition of long-term overdraft” means the condition of a groundwater basin where the average annual amount of water extracted for a long-term period, generally 10 years or more, exceeds the long-term average annual supply of water to the basin, plus any temporary surplus. Overdraft during a period of drought is not sufficient to establish a condition of long-term overdraft if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

(e) “Department” means the Department of Water Resources.

(f) “Expert witness” means a witness qualified pursuant to *Section 720 of the Evidence Code*.

(g) “Groundwater” means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.

(h) “Groundwater extraction facility” means a device or method for extracting groundwater ~~from with~~IN a basin.

(i) “Groundwater recharge” means the augmentation of groundwater, by natural or artificial means.

(j) “Person” includes, but is not limited to, counties, local agencies, state agencies, federal agencies, tribes, business entities, and individuals.

(k) “Plaintiff” means the person filing the complaint initiating a comprehensive adjudication and includes a cross-complainant who initiates a comprehensive adjudication by cross-complaint.

(l) “Public water system” has the same meaning as defined in *Section 116275 of the Health and Safety Code*.

(m) “State small water system” has the same meaning as defined in *Section 116275 of the Health and Safety Code*.

(n) “Sustainable Groundwater Management Act” means ~~the provisions of~~ Part 2.74 (commencing with *Section 10720) of Division 6 of the Water Code*.

SEC. 27.

*Section 835 of the Code of Civil Procedure*is amended to read:

§ 835.

(a) The plaintiff shall provide notice of the comprehensive adjudication to all of the following:

(1) A groundwater sustainability agency that overlies the basin or a portion of the basin.

(2) A city, county, or city and county that overlies the basin or a portion of the basin.

(3) A district with authority to manage or replenish groundwater resources of the basin in whole or in part.

(4) The operator of a public water system or state small water system that uses groundwater from the basin to supply water service.

(5) A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission.

(6) The Attorney General, the State Water Resources Control Board, the department, and the Department of Fish and Wildlife.

(7) A federal department or agency that manages a federal reservation that overlies the basin or a portion of the basin.

(8) A person identified under Section 836.5 who is not a party to the comprehensive adjudication.

(9) A person who is on a list, maintained by a groundwater management agency, of interested parties that have requested notice under the Sustainable Groundwater Management Act.

(b) The plaintiff may provide notice under this section by first class mail or electronic mail.

(c)

(1) Except as provided in paragraph (2), the plaintiff shall provide notice under this section as follows:

(A) To any person entitled to notice under paragraphs (1) to (7), inclusive, of subdivision (a) within 15 days of the filing of the complaint.

(B) To any person entitled to notice under paragraphs (8) and (9) of subdivision (a) within 30 days of receipt of the name and address of the person entitled to notice.

(2) The plaintiff may take additional time as is reasonably necessary before providing notice under this section if the plaintiff determines that additional time is necessary to identify a person entitled to notice under this section, confirm the accuracy of the ~~names or addresses~~NAME OR ADDRESS of a person, or to determine if the conditions requiring notice have been satisfied.

(d) The plaintiff is not required to provide notice under this section to a person who has already been served or intervened in the action.

SEC. 28.

Section 850 of the Code of Civil Procedure, as added by Section 1 of Chapter 672 of the Statutes of 2015, is amended to read:

§ 850.

(a) The court may enter a judgment IN A COMPREHENSIVE ADJUDICATION if the court finds that the judgment meets all of the following criteria:

(1) It is consistent with *Section 2 of Article X of the California Constitution.*

(2) It is consistent with the water right priorities of all non-stipulating parties and any persons who have claims that are exempted pursuant to Section 833 in the basin.

(3) It treats all objecting parties and any persons who have claims that are exempted pursuant to Section 833 equitably as compared to the stipulating parties.

(b) If a party or group of parties submits a proposed stipulated judgment that is supported by more than 50 percent of all parties who are groundwater extractors in the basin or use the basin for groundwater storage and is supported by groundwater extractors responsible for at least 75 percent of the groundwater extracted in the basin during the five calendar years before the filing of the complaint, the court may adopt the proposed stipulated judgment, as applied to the stipulating parties, if the proposed stipulated judgment meets the criteria described in subdivision (a). A party objecting to a proposed stipulated judgment shall demonstrate, by a preponderance of evidence, that the proposed stipulated judgment does not satisfy one or more criteria described in subdivision (a) or that it substantially violates the water rights of the objecting party. If the objecting party is unable to make this showing, the court may impose the proposed stipulated judgment on the objecting party. An objecting party may be subject to a preliminary injunction issued pursuant to Section 847 while his or her objections are being resolved.

SEC. 29.

Section 850 of the Code of Civil Procedure, as added by Chapter 52 of the Statutes of 1953, is amended and renumbered to read:

§ 853.

Upon the failure of ~~any co-owner~~A COOWNER of a mine or mining claim to contribute his proportionate share of the taxes ~~which~~THAT have been levied and assessed upon the mine or MINING claim for the period of five years, ~~any co-owner~~A COOWNER who has paid ~~such~~THAT share may, at the expiration of the five years, serve upon the delinquent ~~co-owner~~COOWNER notice thereof.

SEC. 30.

The heading of Chapter 8 (commencing with *Section 850) of Title 10 of Part 2 of the Code of Civil Procedure* is amended to read:

CHAPTER 8.

Actions Against Coowners of Mines

SEC. 31.

Section 851 of the Code of Civil Procedure, as added by Section 1 of Chapter 672 of the Statutes of 2015, is amended to read:

§ 851.

The judgment in a comprehensive adjudication conducted pursuant to this chapter shall be binding on the parties to the ~~action~~COMPREHENSIVE ADJUDICATION and all their successors in interest, including, but not limited to, heirs, executors, administrators, assigns, lessees, licensees, the agents and employees of the parties to the ~~action~~COMPREHENSIVE ADJUDICATION and all their successors in interest, and all landowners or other persons claiming rights to extract groundwater from the basin whose claims have not been exempted and are covered by the notice provided in the comprehensive adjudication.

SEC. 32.

Section 851 of the Code of Civil Procedure, as amended by Chapter 1611 of the Statutes of 1969, is amended and renumbered to read:

§ 854.

The notice shall be served in the manner provided by law for the service of a summons in a civil action, but where service is by publication, the publication shall be in a newspaper of general circulation published in the county in which the mine or MINING claim is situated or if there is no such newspaper, in such a newspaper in an adjoining county, and the publication shall be at least once a week for 90 days.

SEC. 33.

Section 852 of the Code of Civil Procedure, as added by Section 1 of Chapter 672 of the Statutes of 2015, is amended to read:

§ 852.

The court shall have continuing jurisdiction to modify or amend a final judgment in a comprehensive adjudication in response to new information, changed circumstances, the interests of justice, or to ensure that the criteria of subdivision (a) of Section 850 are met. ~~When~~IF feasible, the judge who heard the original ~~action~~COMPREHENSIVE ADJUDICATION shall preside over actions or motions to modify or amend the FINAL judgment.

SEC. 34.

Section 852 of the Code of Civil Procedure, as added by Chapter 52 of the Statutes of 1953, is amended and renumbered to read:

§ 855.

If ~~prior to~~BEFORE the expiration of 90 days from the service the delinquent fails or refuses to contribute his proportionate share of the taxes, the ~~co-owner~~COOWNER contributing such share may file in the superior court of the county in which the mine or MINING claim is situated a verified petition setting forth the facts and particularly describing the mine or MINING claim.

SEC. 35.

*Section 853 of the Code of Civil Procedure*is amended and renumbered to read:

§ 856.

If the mine or MINING claim is situated in more than one county, the petition may be filed in the superior court of either county.

SEC. 36.

*Section 854 of the Code of Civil Procedure*is amended and renumbered to read:

§ 857.

The clerk shall set the petition for hearing by the court and give notice ~~thereof~~OF THE HEARING by causing a notice of the time and place of the hearing to be posted at the county courthouse at least 10 days before the hearing. The court may order such further notice as it deems proper.

SEC. 37.

*Section 855 of the Code of Civil Procedure*is amended and renumbered to read:

§ 858.

The court shall hear evidence for or against the petition and may order judgment ~~thereon~~ON THE PETITION vesting the interest of the delinquent in the mine or MINING claim in the petitioner.

SEC. 38.

*Section 856 of the Code of Civil Procedure*is amended and renumbered to read:

§ 859.

A certified copy of the decree may be recorded in the office of the recorder of each county in which any part of the mine or MINING claim is situated.

SEC. 39.

*Section 1084 of the Code of Civil Procedure*is amended to read:

§ 1084.

~~Section Ten Hundred and Eight-four.~~The writ of mandamus may be denominated a writ of mandate.

SEC. 40.

Section 1097 of the Code of Civil Procedure is amended to read:

§ 1097.

~~Section Ten Hundred and Ninety-seven. When~~IF a peremptory mandate has been issued and directed to ~~any~~AN inferior tribunal, corporation, ~~Board~~BOARD , or person, ~~if it appear~~AND IT APPEARS to the court that ~~any member of such~~A MEMBER OF THE tribunal, corporation, or ~~Board~~BOARD , or ~~such~~THE person upon whom the writ has been personally served, has, without just excuse, refused or neglected to obey the ~~same, the Court~~WRIT, THE COURT may, upon motion, impose a fine not exceeding one thousand dollars. In case of persistence in a refusal of obedience, the ~~Court~~COURT may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for the complete enforcement of the writ.

SEC. 41.

Section 2025.010 of the Code of Civil Procedure is amended to read:

§ 2025.010.

Any party may obtain discovery within the scope delimited by Chapter 2 (commencing with Section 2017.010)~~and Chapter 3 (commencing with Section 2017.710)~~, and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.

SEC. 42.

Section 2031.010 of the Code of Civil Procedure is amended to read:

§ 2031.010.

(a) Any party may obtain discovery within the scope delimited by ~~Chapters~~CHAPTER 2 (commencing with Section 2017.010)~~and 3 (commencing with Section 2017.710)~~, and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by inspecting, copying, testing, or sampling documents, tangible things, land or other property, and electronically stored information in the possession, custody, or control of any other party to the action.

(b) A party may demand that any other party produce and permit the party making the demand, or someone acting on ~~that~~THE DEMANDING party's behalf, to inspect and to copy a document that is in the possession, custody, or control of the party on whom the demand is made.

(c) A party may demand that any other party produce and permit the party making the demand, or someone acting on ~~that~~THE DEMANDING party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.

(d) A party may demand that any other party allow the party making the demand, or someone acting on ~~that~~THE DEMANDING party's behalf, to enter on any land or other property that is in the possession, custody, or control of the party on whom the demand is made, and to inspect and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it.

(e) A party may demand that any other party produce and permit the party making the demand, or someone acting on ~~that~~THE DEMANDING party's behalf, to inspect, copy, test, or sample electronically stored information in the possession, custody, or control of the party on whom demand is made.

SEC. 43.

Section 2033.010 of the Code of Civil Procedureis amended to read:

§ 2033.010.

Any party may obtain discovery within the scope delimited by ~~Chapters~~CHAPTER 2 (commencing with Section 2017.010)~~and 3 (commencing with Section 2017.710)~~, and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by a written request that any other party to the action admit the genuineness of specified documents, or the truth of specified matters of fact, opinion relating to fact, or application of law to fact. A request for admission may relate to a matter that is in controversy between the parties.

SEC. 44.

Section 2035.010 of the Code of Civil Procedureis amended to read:

§ 2035.010.

(a) One who expects to be a party or expects a successor in interest to be a party to ~~any~~AN action that may be cognizable in ~~any~~A court of the ~~State of California~~STATE , whether as a plaintiff, or as a defendant, or in any other capacity, may obtain discovery within the scope delimited by ~~Chapters~~CHAPTER 2 (commencing with Section 2017.010)~~and 3 (commencing with Section 2017.710)~~, and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), for the purpose of perpetuating that person's own testimony or that of another natural person or organization, or of preserving evidence for use in the event an action is subsequently filed.

(b) One shall not employ the procedures of this chapter for ~~the purpose either of~~PURPOSES OF EITHER ascertaining the possible existence of a cause of action or a defense to it, or of identifying those who might be made parties to an action not yet filed.

SEC. 45.

Section 2036.010 of the Code of Civil Procedureis amended to read:

§ 2036.010.

If an appeal has been taken from a judgment entered by ~~any~~A court of the ~~State of California~~STATE , or if the time for taking an appeal has not expired, a party may obtain discovery within the scope delimited by ~~Chapters~~CHAPTER 2 (commencing with Section 2017.010)~~and 3 (commencing with Section 2017.710)~~, and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), for ~~the purpose~~PURPOSES of perpetuating testimony or preserving information for use in the event of further proceedings in that court.

SEC. 46.

Section 2093 of the Code of Civil Procedureis amended to read:

§ 2093.

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

(b)

(1) A shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths and

affirmations and may perform the duties of the deposition officer pursuant to Chapter 9 (commencing with Section 2025.010) of Title 4. The certified shorthand reporter ~~shall be~~IS entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of *Section 8211 of the Government Code*.

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

(c)

(1) A former judge or justice of a court of record in ~~this~~THE state who retired or resigned from office shall have the power to administer oaths and affirmations, if both of the following conditions are met:

(A) The former judge or justice requests and receives a certification from the Commission on Judicial Performance pursuant to paragraph (2).

(B) A formal disciplinary proceeding was not pending at the time of the retirement or resignation.

(2)

(A) A former judge or justice of a court of record in ~~this~~THE state who retired or resigned from office may apply to the ~~commission~~COMMISSION ON JUDICIAL PERFORMANCE to receive a certification to administer oaths and affirmations. The commission shall supply the required forms to an applicant upon request.

(B)

(i) A certification application shall be accompanied by a medical certification. If an applicant's medical certification indicates ~~that~~ the applicant does not have a medical condition that would impair his or her ability to administer oaths and affirmations, the commission shall issue a certification to the applicant to administer oaths and affirmations. Except as provided in clause (ii), a certification issued pursuant to this paragraph ~~shall be~~IS valid for a period of five years from the date of issuance.

(ii) If an applicant's medical certification indicates ~~that~~ the applicant has a medical condition that may impair his or her ability to administer oaths and affirmations, but does not do so at the time the medical certification is submitted with the application, the commission shall issue a certification to administer oaths and affirmations, but the certification ~~shall only be~~IS ONLY valid for a period of two years from the date of issuance.

(3) Notwithstanding paragraph (1), a former judge or justice of a court of record who received a certification from the ~~commission~~COMMISSION ON JUDICIAL PERFORMANCE before January 1, 2016, to administer oaths and affirmations may continue to exercise this power until January 1, 2017, at which time he or she shall reapply for certification pursuant to paragraph (2).

(4) The ~~commission~~COMMISSION ON JUDICIAL PERFORMANCE may charge a regulatory fee not to exceed fifteen dollars ($15) for each certification application submitted pursuant to this subdivision to cover its costs, including costs to review the medical certification.

(d) A rule ~~,~~ or regulation regarding the confidentiality of proceedings of the ~~commission shall not be construed to~~COMMISSION ON JUDICIAL PERFORMANCE DOES NOT prohibit the commission from issuing a certificate as provided for in this section.

SEC. 47.

Section 2105 of the Corporations Code is amended to read:

§ 2105.

(a) A foreign corporation shall not transact intrastate business without having first obtained from the Secretary of State a certificate of qualification. To obtain that certificate it shall file, on a form prescribed by the Secretary of State, a statement and designation signed by a corporate officer or, in the case of a foreign association that has no officers, signed by a trustee stating:

(1)

Its name and the state or place of its incorporation or organization.

(2) The street address of its principal executive office.

(3) The street address of its principal office within this state, if any.

(4) The mailing address of its principal executive office, if different from the addresses specified pursuant to paragraphs (2) and (3).

(5) The name of an agent upon whom process directed to the corporation may be served within this state. The designation shall comply with ~~the provisions of~~ subdivision (b) of Section 1502.

(6)

(A) Its irrevocable consent to service of process directed to it upon the agent designated and to service of process on the Secretary of State if the agent ~~so~~ designated or the agent's successor is no longer authorized to act or cannot be found at the address given.

(B) Consent under this paragraph extends to service of process directed to the foreign corporation's agent in ~~California~~THIS STATE for a search warrant issued pursuant to *Section 1524.2 of the Penal Code*, or for any other validly issued and properly served search warrant, for records or documents that are in the possession of the foreign corporation and are located inside or outside of this state. This subparagraph shall apply to a foreign corporation that is a party or a nonparty to the matter for which the search warrant is sought. For purposes of this subparagraph, "properly served" means delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a person or entity listed in Section 2110, or any other means specified by the foreign corporation, including, but not limited to, email or submission via an Internet ~~web~~WEB portal that the foreign corporation has designated for the purpose of service of process.

(7) If it is a corporation ~~which~~THAT will be subject to the Insurance Code as an insurer, it shall ~~so~~ state that fact.

(b) Annexed to ~~that~~THE statement and designation shall be a certificate by an authorized public official of the state or place of incorporation of the corporation to the effect that the corporation is an existing corporation in good standing in that state or place or, in the case of an association, an officers' certificate stating that it is a validly organized and existing business association under the laws of a specified foreign jurisdiction.

(c) Before it may be designated by ~~any~~A foreign corporation as its agent for service of process, ~~any~~A corporate agent must comply with Section 1505.

SEC. 48.

Section 2207 of the Corporations Code is amended to read:

§ 2207.

(a) A corporation is liable for a civil penalty in an amount not exceeding one million dollars ($1,000,000) if the corporation does both of the following:

(1) Has actual knowledge that an officer, director, manager, or agent of the corporation does any of the following:

(A) Makes, publishes, or posts, or has made, published, or posted, either generally or privately to the shareholders or other persons, either of the following:

(i) An oral, written, or electronically transmitted report, exhibit, notice, or statement of its affairs or pecuniary condition that ~~contains~~INCLUDES a material statement or omission that is false and intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(ii) An oral, written, or electronically transmitted report, prospectus, account, or statement of operations, values, business, profits, or expenditures, that includes a material false statement or omission intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(B) Refuses, or has refused to make, any book entry or post any notice required by law in the manner required by law.

(C) Misstates or conceals, or has misstated or concealed, from a regulatory body a material fact in order to deceive a regulatory body to avoid a statutory or regulatory duty, or to avoid a statutory or regulatory limit or prohibition.

(2) Within 30 days after actual knowledge is acquired of the actions described in paragraph (1), the corporation knowingly fails to do both of the following:

(A) Notify the Attorney General or appropriate government agency in writing, unless the corporation has actual knowledge that the Attorney General or appropriate government agency has been notified.

(B) Notify its shareholders in writing, unless the corporation has actual knowledge that the shareholders have been notified.

(b) The requirement for notification under this section ~~is not applicable~~DOES NOT APPLY if the action taken or about to be taken by the corporation, or by an officer, director, manager, or agent of the corporation under paragraph (1) of subdivision (a), is abated within the time prescribed for reporting, unless the appropriate government agency requires disclosure by regulation.

(c) If the action reported to the Attorney General pursuant to this section implicates the government authority of an agency other than the Attorney General, the Attorney General shall promptly forward the written notice to that agency.

(d) If the Attorney General was not notified pursuant to subparagraph (A) of paragraph (2) of subdivision (a), but the corporation reasonably and in good faith believed that it had complied with the notification requirements of this section by notifying a government agency listed in paragraph (5) of subdivision (e), no penalties shall apply.

(e) For purposes of this section:

(1) “Manager” means a person having both of the following:

(A) Management authority over a business entity.

(B) Significant responsibility for an aspect of a business that includes actual authority for the financial operations or financial transactions of the business.

(2) “Agent” means a person or entity authorized by the corporation to make representations to the public about the corporation’s financial condition and who is acting within the scope of the agency when the representations are made.

(3) “Shareholder” means a person or entity that is a shareholder of the corporation at the time the disclosure is required pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(4) "Notify its shareholders" means to give sufficient description of an action taken or about to be taken that would constitute acts or omissions as described in paragraph (1) of subdivision (a). A notice or report filed by a corporation with the United States Securities and Exchange Commission that relates to the facts and circumstances giving rise to an obligation under paragraph (1) of subdivision (a) shall satisfy all notice requirements arising under paragraph (2) of subdivision (a), but ~~shall not be~~IS NOT the exclusive means of satisfying the notice requirements, ~~provided that~~IF the Attorney General or appropriate agency is informed in writing that the filing has been made together with a copy of the filing or an electronic link where it is available online without charge.

(5) "Appropriate government agency" means an agency on the following list that has regulatory authority with respect to the financial operations of a corporation:

(A) Department of Business Oversight.

(B) Department of Insurance.

(C) Department of Managed Health Care.

(D) United States Securities and Exchange Commission.

(6) "Actual knowledge of the corporation" means the knowledge an officer or director of a corporation actually possesses or does not consciously avoid possessing, based on an evaluation of information provided pursuant to the corporation's disclosure controls and procedures.

(7) "Refuse to make a book entry" means the intentional decision not to record an accounting transaction when all of the following conditions are satisfied:

(A) The independent auditors required recordation of an accounting transaction during the course of an audit.

(B) The CORPORATION'S audit committee ~~of the corporation~~ has not approved the independent auditor's recommendation.

(C) The decision is made for the primary purpose of rendering the financial statements materially false or misleading.

(8) "Refuse to post any notice required by law" means an intentional decision not to post a notice required by law when all of the following conditions exist:

(A) The decision not to post the notice has not been approved by the corporation's audit committee.

(B) The decision is intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(9) "Misstate or conceal material facts from a regulatory body" means an intentional decision not to disclose material facts when all of the following conditions exist:

(A) The decision not to disclose material facts has not been approved by the corporation's audit committee.

(B) The decision is intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(10) "Material false statement or omission" means an untrue statement of material fact or an omission to state a material fact necessary in order to make the statements made under the circumstances under which they were made not misleading.

(11) "Officer" means any person as set forth in Rule 16a-1 promulgated under the Securities Exchange Act of 1934 or any successor regulation thereto, except an officer of a subsidiary corporation who is not also an officer of the parent corporation.

(f) This section only applies to corporations that are issuers, as defined in Section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. Sec. 7201 ~~and following~~ET SEQ.).

(g) An action to enforce this section may only be brought by the Attorney General or a district attorney or city attorney in the name of the people of the ~~State of California~~STATE .

SEC. 49.

Section 17708.02 of the Corporations Code is amended to read:

§ 17708.02.

(a) A foreign limited liability company may apply for a certificate of registration to transact business in this state by delivering an application to the Secretary of State for filing on a form prescribed by the Secretary of State. The application shall state all of the following:

(1) The name of the foreign limited liability company, and, if the name does not comply with Section 17701.08, an alternate name adopted pursuant to subdivision (a) of Section 17708.05.

(2)

The state or other jurisdiction under whose law the foreign limited liability company is organized and the date of its organization in that state or other jurisdiction, and a statement that the foreign limited liability company is authorized to exercise its powers and privileges in that state or other jurisdiction.

(3) The street address of the foreign limited liability company's principal office and of its principal business office in this state, if any.

(4)

(A) The name and street address of the foreign limited liability company's initial agent for service of process in this state who consents to service of process and meets the qualifications specified in subdivision (c) of Section 17701.13. If a corporate agent is designated, only the name of the agent shall be set forth.

(B) Consent under this paragraph extends to service of process directed to the foreign limited liability company's agent in ~~California~~THIS STATE for a search warrant issued pursuant to *Section 1524.2 of the Penal Code*, or for any other validly issued and properly served search warrant, for records or documents that are in the possession of the foreign limited liability company and are located inside or outside of this state. This subparagraph shall apply to a foreign limited liability company that is a party or a nonparty to the matter for which the search warrant is sought. For purposes of this subparagraph, ~~properly served~~"PROPERLY SERVED" means delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, facsimile, or any other means specified by the foreign limited liability company, including email or submission via an Internet ~~web~~WEB portal the foreign limited liability company has designated for the purpose of service of process.

(5) A statement that the Secretary of State is appointed the agent of the foreign limited liability company for service of process if the agent has resigned and has not been replaced or if the agent cannot be found or served with the exercise of reasonable diligence.

(6) The mailing address of the foreign limited liability company if different than the street address of the principal office, or principal business office in this state.

(b) A foreign limited liability company shall deliver with a completed application under subdivision (a) a certificate of existence, status, or good standing or a record of similar import signed by the Secretary of State or other official having custody of the foreign limited liability company's publicly

filed records in the state or other jurisdiction under whose law the foreign limited liability company is formed.

(c) The Secretary of State shall include with instructional materials, provided in conjunction with registration under subdivision (a), a notice that filing the registration will obligate the foreign limited liability company to pay an annual tax to the Franchise Tax Board pursuant to *Section 17941 of the Revenue and Taxation Code*. That notice shall be updated annually to specify the dollar amount of the tax.

SEC. 50.

Section 25100 of the Corporations Code is amended to read:

§ 25100.

The following securities are exempted from Sections 25110, 25120, and 25130:

(a) Any security ~~(including a revenue obligation)~~, INCLUDING A REVENUE OBLIGATION, issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing~~;~~, or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision or municipality of that province, or by any other foreign government ~~with which~~THAT the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor~~;~~, or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in, or a direct obligation of, a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings association~~or~~, federal savings bank~~or~~, federal land bank~~or~~, joint land bank~~or~~, national farm loan association, or by any savings association, as defined in subdivision (a) of *Section 5102 of the Financial Code*, ~~which~~THAT is subject to the supervision and regulation of the Commissioner of Business Oversight~~of this state~~.

(e) Any security ~~(other~~, OTHER than an interest in all or portions of a parcel or parcels of real property ~~which~~THAT are subdivided land or a subdivision or in a real estate ~~development)~~DEVELOPMENT , the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner~~of this state~~.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property that are subdivided lands or a subdivision or in a real estate development~~; provided that~~. The exemption in this subdivision ~~shall not be applicable to~~DOES NOT APPLY TO EITHER OF THE FOLLOWING :

(1) Any investment contract sold or offered for sale with, or as part of, that interest~~, or~~.

(2) Any person engaged in the business of selling, distributing, or supplying water for irrigation purposes or domestic use that is not a public utility except that the exemption ~~is applicable~~APPLIES to any security of a mutual water company~~(other~~, OTHER than an investment contract as described in paragraph ~~(1))~~(1), offered or sold in connection with subdivided lands pursuant to Chapter 2 (commencing with Section 14310) of Part 7 of Division 3 of Title 1.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of *Section 5102 of the Financial Code*, and holding a license or certificate of authority then in force from the Commissioner of Business Oversight~~of this state~~.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company ~~which~~THAT is ANY OF THE FOLLOWING:

(1) Subject to the jurisdiction of the Interstate Commerce Commission or its successor~~or~~.

(2) A holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of ~~that~~THE HOLDING company within the meaning of that act~~or~~.

(3) Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province~~;~~, and the security is subject to registration with or authorization of issuance by that authority.

(j) Any security~~(except~~, EXCEPT evidences of indebtedness, whether interest bearing or ~~not)~~NOT, of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships, or dues, or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of ~~any~~A nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of ~~that~~THE nonprofit organization or from remuneration received from ~~that~~THE nonprofit organization.

(k) Any agreement, commonly known as a “life income contract,” of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) ~~which~~THAT the commissioner designates by rule or order, with a donor in consideration of a donation of property to that issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or those other persons.

(l) Any note, draft, bill of exchange, or banker’s acceptance ~~which~~THAT is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and ~~which~~THAT evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of that paper which is likewise limited, or any guarantee of that paper or of that renewal, ~~provided that~~IF the paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker’s acceptances from qualification of those securities ~~when~~IF the commissioner finds that the qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by ~~any~~A corporation organized and existing under the provisions of Chapter 1 (commencing with *Section 54001) of Division 20 of the Food and Agricultural Code*.

(n)

Any beneficial interest in an employees’ pension, profit-sharing, stock bonus, or similar benefit plan ~~which~~THAT meets the requirements for qualification under *Section 401 of the federal Internal Revenue Code* or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees’ pension, profit-sharing, stock bonus, or similar benefit plan meets those requirements ~~shall be~~IS conclusive evidence that the plan is an employees’ pension, profit-sharing, stock bonus, or similar benefit plan within the meaning of the first sentence of this subdivision until the date the

determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not the revocation is retroactive.

(o)(1)Any security listed or approved for listing upon notice of issuance on a national securities exchange, if the exchange has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to the security. The exemption afforded by this subdivision does not apply to securities listed or approved for listing upon notice of issuance on a national securities exchange, in a rollup transaction unless the rollup transaction is an eligible rollup transaction as defined in Section 25014.7.

(2)~~That certification of any~~THE CERTIFICATION OF AN exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications for listing of common stock, substantially applies the minimum standards set forth in either subparagraph (A) or (B) of paragraph ~~(1)~~(3) , and, in considering suspension or removal from listing, substantially applies each of the criteria set forth in paragraph ~~(2)~~(4) .

(1)(3) Listing standards:

(A)

(i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii)

Pretax income of at least seven hundred fifty thousand dollars ($750,000) in the issuer's last fiscal year or in two of its last three fiscal years.

(iii)(I)Minimum public distribution of 500,000 shares~~(exclusive~~, EXCLUSIVE of the holdings of officers, directors, controlling shareholders, and other concentrated or family ~~holdings)~~HOLDINGS , together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange may also consider the listing of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing under this trading provision, the exchange shall review the nature and frequency of that activity and any other factors as it ~~may determine~~DETERMINES to be relevant in ascertaining whether the issue is suitable for trading. A security that trades infrequently shall not be considered for listing under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

(II)Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing unless the public distribution appreciably exceeds 500,000 shares.

(iv) Minimum price of three dollars ($3) per share for a reasonable period of time ~~prior to~~BEFORE the filing of a listing application~~; provided,~~. However, in certain instances an exchange may favorably consider listing an issue selling for less than three dollars ($3) per share after considering all pertinent factors, including market conditions in general, whether historically the issue has sold above three dollars ($3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.

(v) An aggregate market value for publicly held shares of at least three million dollars ($3,000,000).

(B)

(i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Minimum public distribution set forth in clause (iii) of subparagraph (A) of paragraph ~~(1)~~(3) .

(iii) Operating history of at least three years.

(iv) An aggregate market value for publicly held shares of at least fifteen million dollars ($15,000,000).

(2)(4) Criteria for consideration of suspension or removal from listing:

(A) If a company that ~~(A)~~ has shareholders' equity of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years ~~, or (B)~~OR has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(B) If the number of shares publicly held~~(excluding~~, EXCLUDING the holdings of officers, directors, controlling shareholders, and other concentrated or family ~~holdings)~~HOLDINGS, is less than 150,000.

(C) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.

(D) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(E)

If shares of common stock sell at a price of less than three dollars ($3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of the shares within a reasonable period of time after being requested by the exchange to take that action.

(5)(A)A national securities exchange, certified by rule or order of the commissioner under this subdivision, shall file annual reports when requested to do so by the commissioner. The annual reports shall contain, by issuer, ALL OF THE FOLLOWING :

(I)The variances granted to an exchange's listing standards, including variances from corporate governance and voting rights' standards, for any security of that issuer~~;~~.

(II)The reasons for the variances~~;~~.

(III)A discussion of the review procedure instituted by the exchange to determine the effect of the variances on investors and whether the variances should be continued~~; and~~.

(IV)Any other information that the commissioner deems relevant.

(B)The purpose of these reports is to assist the commissioner in determining ~~whether~~IF the quantitative and qualitative requirements of this subdivision are substantially being met by the exchange in general or with regard to any particular security.

(6)The commissioner after appropriate notice and opportunity for hearing in accordance with the ~~provisions of the~~ Administrative Procedure Act ~~, Chapter 5~~(CHAPTER 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government ~~Code,~~CODE) may, in his or her discretion, by rule or order, decertify any exchange previously certified that ceases substantially to apply the minimum standards or criteria as set forth in paragraphs ~~(1) and (2)~~(3) AND (4) .

(7)A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order

of certification, and any warrant or right to purchase or subscribe to that security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying the exchange.

(p) A promissory note secured by a lien on real property, ~~which~~THAT is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, that qualifies under the provisions of *Section 1280.7 of the Insurance Code*, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in ~~California~~THE STATE , which contracts indemnify solely in respect to medical malpractice claims against the members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that ~~any~~A person has engaged, or is about to engage, in ~~any~~AN act or practice constituting a violation of ~~any provision of~~*Section 1280.7 of the Insurance Code*, the commissioner may, in the commissioner's discretion, bring an action in the name of the people of the ~~State of California~~STATE in the superior court to enjoin the acts or practices or to enforce compliance with *Section 1280.7 of the Insurance Code*. Upon a proper showing a permanent or preliminary injunction, a restraining order, or a writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, ~~(A)~~ make public or private investigations within or outside of ~~this~~THE state as the commissioner deems necessary to determine ~~whether any~~IF A person has violated or is about to violate ~~any provision of~~*Section 1280.7 of the Insurance Code* or to aid in the enforcement of Section 1280.7, and ~~(B)~~ publish information concerning the violation of Section 1280.7.

(3) For ~~the purpose of any~~PURPOSES OF AN investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records ~~which~~THAT the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5)

No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence~~(documentary or otherwise)~~, DOCUMENTARY OR OTHERWISE , required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence~~(documentary or otherwise)~~, DOCUMENTARY OR OTHERWISE , except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(6)(A)The cost of any review, examination, audit, or investigation made by the commissioner under *Section 1280.7 of the Insurance Code* shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(B)The recoverable cost of each review, examination, audit, or investigation made by the commissioner under *Section 1280.7 of the Insurance Code* shall not exceed twenty-five thousand dollars ($25,000), except that costs exceeding twenty-five thousand dollars ($25,000) shall be recoverable if the costs are necessary to prevent a violation of ~~any provision of~~*Section 1280.7 of the Insurance Code*.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, ~~provided~~IF the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one thousand dollars ($1,000). This exemption does not apply to the shares or memberships of that corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of the corporation or from remuneration, other than reasonable salary, received from the corporation. This exemption does not apply to nonvoting shares or memberships of that corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power~~(Section 12253)~~, AS DEFINED IN SECTION 12253, in the corporation. This exemption ~~also~~ does not apply to shares or memberships issued by a nonprofit cooperative corporation organized to facilitate the creation of an unincorporated interindemnity arrangement that provides indemnification for medical malpractice to its physician and surgeon members as set forth in subdivision (q).

(s) Any security consisting of or representing an interest in a pool of mortgage loans that meets ~~each~~ALL of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state, or by a savings association as defined in subdivision (a) of *Section 5102 of the Financial Code* and ~~which~~THAT is subject to the supervision and regulation of the ~~Commissioner of Financial Institutions~~COMMISSIONER , and each of which at the time of transfer to the pool is an authorized investment for the originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee ~~which~~THAT is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) The security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) The security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under that act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

(t)

(1) Any security issued or guaranteed by and representing an interest in, or a direct obligation of, an industrial loan company incorporated under the laws of the state and authorized by the ~~Commissioner of Financial Institutions~~COMMISSIONER to engage in industrial loan business.

(2) Any investment certificate in or issued by ~~any~~AN industrial loan company that is organized under the laws of a state of the United States other than this state, that is insured by the Federal Deposit Insurance Corporation, and that maintains a branch office in this state.

SEC. 51.

Section 25247 of the Corporations Code is amended to read:

§ 25247.

(a) Upon written or oral request, the commissioner shall make available to any person the information specified in *Section 6254.12 of the Government Code* and made available through the Public Disclosure Program of the Financial Industry Regulatory Authority with respect to any broker-dealer or agent licensed or regulated under this part. The commissioner shall also make available the current license status and the year of issuance of the license of a broker-dealer. Any information disclosed pursuant to this subdivision shall constitute a public record. Notwithstanding any other ~~provisions of~~ law, the commissioner may disclose either orally or in writing that information pursuant to this subdivision. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the ~~State of California~~STATE , the Department of Business Oversight, the Commissioner of Business Oversight, or any officer, agent, or employee of the state or ~~of~~ the Department of Business Oversight for the release of any false or unauthorized information, unless the release of that information was done with knowledge and malice.

(b) Any broker-dealer or agent licensed or regulated under this part shall, upon request, deliver a written notice to any client when a new account is opened stating that information about the license status or disciplinary record of a broker-dealer or an agent may be obtained from the ~~Department~~DIVISION of Corporations, or from any other source that provides substantially similar information.

(c) The notice provided under subdivision (b) shall contain the office location or telephone number where the information may be obtained.

(d) A broker-dealer or agent ~~shall be~~IS exempt from providing the notice required under subdivision (b) if a person who does not have a financial relationship with the broker-dealer or agent, requests only general operational information such as the nature of the broker-dealer's or agent's business, office location, hours of operation, basic services, and fees, but does not solicit advice regarding investments or other services offered.

(e) Upon written or oral request, the commissioner shall make available to any person the disciplinary records maintained on the Investment Adviser Registration Depository and made available through the Investment Advisor Public Disclosure INTERNET Web site ~~with respect~~AS to any investment adviser, investment adviser representative, or associated person of an investment adviser licensed or regulated under this part. The commissioner shall also make available the current license status and the year of issuance of the license of an investment adviser. Any information disclosed pursuant to this subdivision shall constitute a public record. Notwithstanding any other ~~provision of~~ law, the commissioner may disclose that information either orally or in writing pursuant to this subdivision. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the ~~State of California~~STATE , the Department of Business Oversight, the Commissioner of Business Oversight, or any officer, agent, or employee of the state or ~~of~~ the Department of Business Oversight for the release of any false or unauthorized information, unless the release of that information was done with knowledge and malice.

(f) *Section 461 of the Business and Professions Code* shall not ~~be applicable to the Department~~APPLY TO THE DIVISION of Corporations when using a national, uniform application adopted or approved for use by the Securities and Exchange Commission, the North American Securities Administrators Association, or the Financial Industry Regulatory Authority that is required for participation in the Central Registration Depository or the Investment Adviser Registration Depository.

(g) This section shall not require the disclosure of criminal history record information maintained by the Federal Bureau of Investigation pursuant to Section 534 of Title 28 of the United States Code, and the rules thereunder, or information not otherwise subject to disclosure under the Information Practices Act of 1977.

SEC. 52.

Section 221.6 of the Education Code is amended to read:

§ 221.6.

~~Title IX: by~~ON OR BEFORE July 1, 2006, the department shall post on its INTERNET Web site, in both English and Spanish and at a reading level that may be comprehended by pupils in high school, the information set forth in the federal regulations implementing Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.).

SEC. 53.

Section 1313 of the Education Code is amended to read:

§ 1313.

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

SEC. 54.

Section 8340.4 of the Education Code is amended to read:

§ 8340.4.

The county shall, by the end of the first fiscal year of operation under the approved child care subsidy plan, demonstrate, in the report required pursuant to Section 8340.5, an increase in the aggregate days a child is enrolled in child care in the county as compared to the enrollment in the final quarter of the ~~2014-2015~~2014-15 fiscal year.

SEC. 55.

Section 17250.25 of the Education Code, as added by Section 2 of Chapter 752 of the Statutes of 2015, is amended to read:

§ 17250.25.

The procurement process for design-build projects shall progress as follows:

(a)

(1) The school district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the school district's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in ~~California~~THE STATE .

(2) The documents shall not include a design-build-operate contract for a project. The documents, however, may include operations during a training or transition period, but shall not include long-term operations for a project.

(b) The school district shall prepare and issue a request for qualifications in order to prequalify, or develop a short-list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:

(1) Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the school district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the school district to inform interested parties of the contracting opportunity.

(2) Significant factors that the school district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other nonprice-related factors.

(3) A standard template request for statements of qualifications prepared by the school district. In preparing the standard template, the school district may consult with the construction industry, the building trades and surety industry, and other school districts interested in using the authorization provided by this chapter. The template shall require the following information:

(A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the shareholders, partners, or members known at the time of statement of qualification submission who will perform work on the project.

(B)

Evidence that the members of the design-build team have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that the proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project~~, and~~.

(C)A financial statement that ensures that the design-build entity has the capacity to complete the project.

(C)(D) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(D)(E) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(E)(F) Information concerning workers' compensation experience history and a worker safety program.

(F)(G) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity, a copy of the organizational documents or agreement committing to form the organization.

(G)(H)

An acceptable safety record. A proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, or if the proposer is a party to an alternative dispute resolution system, as provided for in Section 3201.5 of the Labor Code.

~~(4)(A)~~(c)(1)The information required under ~~this subdivision~~A STANDARD TEMPLATE PURSUANT TO PARAGRAPH (3) OF SUBDIVISION (B) shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(B)(2) Information required under ~~this subdivision~~A STANDARD TEMPLATE PURSUANT TO PARAGRAPH (3) OF SUBDIVISION (B) that is not otherwise a public record under the California Public Records Act (Chapter 3.5 (commencing with *Section 6250) of Division 7 of Title 1 of the Government Code*) shall not be open to public inspection.

(c)(d) A design-build entity shall not be prequalified or shortlisted unless the entity provides an enforceable commitment to the school district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

(1) For purposes of this subdivision:

(A) "Apprenticeable occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards had approved an apprenticeship program pursuant to *Section 3075 of the Labor Code* before January 1, 2014.

(B) "Skilled and trained workforce" means a workforce that meets all of the following conditions:

(i) All the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards.

(ii)

(I)

As of July 1, 2016, at least 20 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to *Section 3075 of the Labor Code* or located outside ~~California~~THE STATE and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(II) As of July 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to

Section 3075 of the Labor Code or located outside ~~California~~THE STATE and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(III) As of July 1, 2018, at least 40 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside ~~California~~THE STATE and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(IV) As of July 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside ~~California~~THE STATE and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(V) As of July 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside ~~California~~THE STATE and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(iii) For an apprenticeable occupation in which no apprenticeship program had been approved by the Chief of the Division of Apprenticeship Standards before January 1, 1995, up to one-half of the graduation percentage requirements of clause (ii) may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation ~~prior to~~BEFORE the chief's approval of an apprenticeship program for that occupation in the county in which the project is located.

(C) "Skilled journeyperson" means a worker who either:

(i) Graduated from an apprenticeship program for the applicable occupation that was EITHER approved by the Chief of the Division of Apprenticeship Standards or located outside ~~California~~THE STATE and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(ii) Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

(2) An entity's commitment that a skilled and trained workforce will be used to perform the project or contract may be established by any of the following:

(A) The entity's agreement with the school district that the entity and its subcontractors at every tier will comply with the requirements of this subdivision and that the entity will provide the school district with evidence, on a monthly basis while the project or contract is being performed, that the entity and its subcontractors are complying with the requirements of this subdivision.

(B) If the school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and that includes the requirements of this subdivision, the entity's agreement that it will become a party to that project labor agreement.

(C)

Evidence that the entity has entered into a project labor agreement that includes the requirements of this subdivision and that will bind the entity and all its subcontractors at every tier performing the project or contract.

~~(d)~~(e)(1)Based on the documents prepared as described in subdivision (a), the school district shall prepare a request for proposals that invites prequalified or short-listed entities to submit competitive sealed proposals in the manner prescribed by the school district. The request for proposals shall include, but need not be limited to, the following elements:

(1)(A) Identification of the basic scope and needs of the project or contract, the estimated cost of the project, the methodology that will be used by the school district to evaluate proposals, whether the contract will be awarded on the basis of low bid or best value, and any other information deemed necessary by the school district to inform interested parties of the contracting opportunity.

(2)(B) Significant factors that the school district reasonably expects to consider in evaluating proposals, including, but not limited to, cost or price and all nonprice-related factors.

(3)(C) The relative importance or the weight assigned to each of the factors identified in the request for proposals.

(4)(2) Where a best value selection method is used, the school district may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the school district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the school district to ensure that any discussions or negotiations are conducted in good faith.

(e)(f) For those projects ~~utilizing~~USING low bid as the final selection method, the competitive bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and awards shall be made to the design-build entity that is the lowest responsible bidder.

(f)(g) For those projects ~~utilizing~~USING best value as a selection method, the design-build competition shall progress as follows:

(1) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposals. The following minimum factors, however, shall be weighted as deemed appropriate by the school district:

(A) Price, unless a stipulated sum is specified.

(B) Technical design and construction expertise.

(C) Life-cycle costs over 15 or more years.

(2) Pursuant to ~~subdivision (d)~~PARAGRAPH (2) OF SUBDIVISION (E) , the school district may hold discussions or negotiations with responsive proposers using the process articulated in the school district's request for proposals.

(3) When the evaluation is complete, the responsive proposers shall be ranked based on a determination of value provided, ~~provided that~~AND no more than three proposers are required to be ranked.

(4) The award of the contract shall be made to the responsible design-build entity whose proposal is determined by the school district to have offered the best value to the public.

(5) Notwithstanding any other ~~provision of~~ law, upon issuance of a contract award, the school district shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award.

(6) The statement regarding the school district's contract award, described in paragraph (5), and the contract file shall provide sufficient information to satisfy an external audit.

SEC. 56.

Section 17250.35 of the Education Code, as added by Section 2 of Chapter 752 of the Statutes of 2015, is amended to read:

§ 17250.35.(A)The school district, in each design-build request for proposals, may identify specific types of subcontractors that must be included in the design-build entity statement of qualifications and proposal. All construction subcontractors that are identified in the proposal shall be afforded all the protections of Chapter 4 (commencing with *Section 4100) of Part 1 of Division 2 of the Public Contract Code*.

(a) (b) Following award of the design-build contract, the design-build entity shall proceed as follows in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work:

(1) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the school district, including a fixed date and time on which qualifications statements, bids, or proposals will be due.

(2) Establish reasonable qualification criteria and standards.

(3) Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing. The foregoing process does not apply to construction subcontractors listed in the original proposal. Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with *Section 4100) of Part 1 of Division 2 of the Public Contract Code*.

SEC. 57.

*Section 33353.7 of the Education Code*is amended to read:

§ 33353.7.

(a) No later than July 1, 2017, the California Interscholastic Federation, in consultation with the department, shall develop guidelines, procedures, and safety standards for the purpose of classifying competition cheer as an interscholastic sport that is consistent with the United States Department of Education's Office for Civil Rights' definition of a sport.

(b) For purposes of this section, "competition cheer" means a sport in which teams participate in direct, head-to-head competition with one another using an objective scoring system.

(c) The California Interscholastic Federation shall seek a United States Department of Education Office ~~of~~FOR Civil Rights Title IX compliance designation for competition cheer. Competition cheer shall not be counted ~~towards~~TOWARD a school's Title IX compliance unless the United States Department of Education's Office for Civil Rights deems competition cheer compliant with its definition of a sport.

SEC. 58.

Section 41360 of the Education Code is amended to read:

§ 41360.

(a) Loans may be made from moneys in the Public School District Organization Revolving Fund to newly organized elementary, high school, or unified school districts upon application of the

governing board of any such school district, certified by the county superintendent of schools and approved by the Superintendent for use by the school district during the period from the date the action to form the school district was completed and the date the school district becomes effective for all purposes. Money loaned to a school district pursuant to this section shall be used only to meet one or more of the following:

(1) The expenses of office rental, office supplies, postage, telephone, and telegraphing.

(2) The expenses of necessary elections required by law or authorized by Section 35532.

(3) The expenses of employing, the salary of, and necessary travel expenses of officers and necessary clerical help for the governing board of the school district.

(b) During each of the two successive fiscal years commencing with the first fiscal year of the existence of the school district for all purposes, the ~~State~~ Controller shall deduct from apportionments made to that school district an amount equal to one-half of the amount loaned to that school district under this section and pay the same amount into the Public School District Organization Revolving Fund in the State Treasury.

SEC. 59.

Section 41422 of the Education Code is amended to read:

§ 41422.

(a) A school district, county office of education, or charter school that is prevented from maintaining its schools during a fiscal year for at least 175 days or is required to operate sessions of shorter length than otherwise prescribed by law because of fire, flood, earthquake, or epidemic, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue that order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold a teacher, or because of the illness of the teacher, which fact shall be shown to the satisfaction of the Superintendent by the affidavits of the members of the governing board of the school district, the governing board of the county office of education, or the governing board OR BODY of the charter school and of the county superintendent of schools, shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 full-length days.

(b) This section shall also apply to school districts, county offices of education, or charter schools that, in the absence of one or more of the conditions prescribed by this section, would have qualified for funds pursuant to Sections 46200 to 46208, inclusive, or Section 47612.5, as applicable.

SEC. 60.

Section 42925 of the Education Code is amended to read:

§ 42925.

(a) As a condition of receiving funds, each county office of education and consortium of county offices of education with a foster youth services coordinating program operated pursuant to this chapter shall, to the extent possible, develop and enter into a memorandum of understanding, contract, or formal agreement with the county child welfare agency pursuant to which foster youth services coordinating program funds shall be used, to the maximum extent possible, to leverage funds received pursuant to Title ~~IV-E~~IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) and any other funds that may be used to specifically address the educational needs of pupils in foster care, or they shall explain in writing, annually, why a memorandum of understanding is not practical or feasible.

(b) To the extent possible, each foster youth services coordinating program is encouraged to consider leveraging other local funding opportunities to support the educational success of pupils in foster care.

SEC. 61.

Section 44977.5 of the Education Code is amended to read:

§ 44977.5.

(a) During each school year, when a person employed in a position requiring certification qualifications has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of maternity or paternity leave pursuant to *Section 12945.2 of the Government Code* for a period of up to 12 school weeks, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due him or her for any of the additional 12 weeks in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if ~~no~~A substitute employee was NOT employed, the amount that would have been paid to the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

(1) The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of maternity or paternity leave pursuant TO*Section 12945.2 of the Government Code*.

(2) An employee shall not be provided more than one 12-week period per maternity or paternity leave. However, if a school year terminates before the 12-week period is exhausted, the employee may take the balance of the 12-week period in the subsequent school year.

(3) An employee on maternity or paternity leave pursuant to *Section 12945.2 of the Government Code* shall not be denied access to differential pay, AS SPECIFIED IN SUBDIVISION (A), while on that leave.

(c) This section ~~shall be applicable~~APPLIES whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing school district.

(d) To the extent that this section conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2016, pursuant to Chapter 10.7 (commencing with *Section 3540) of Division 4 of Title 1 of the Government Code*, this section shall not apply until expiration or renewal of that collective bargaining agreement.

(e) For purposes of this section, “maternity or paternity leave” means leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

SEC. 62.

Section 44984 of the Education Code is amended to read:

§ 44984.

(a) The governing board of a school district shall provide by rules and regulations for industrial accident and illness leaves of absence for all certificated employees. The governing board of a SCHOOL district that is created or whose boundaries or status is changed by an action to organize or reorganize SCHOOL districts completed after the effective date of this section shall provide by

rules and regulations for these leaves of absence on or before the date on which the organization or reorganization of the SCHOOL district becomes effective for all purposes.

(b) The rules or regulations shall include the following provisions:

(1) Allowable leave shall be for not less than 60 days during which the schools of the SCHOOL district are required to be in session or when the employee would otherwise have been performing work for the SCHOOL district in any one fiscal year for the same accident.

(2) Allowable leave shall not be accumulated from year to year.

(3) Industrial accident or illness leave shall commence on the first day of absence.

(4)

(A) ~~When~~IF a certificated employee is absent from his or her duties on account of an industrial accident or illness, he or she shall be paid the portion of the salary due him or her for any month in which the absence occurs as, when added to his or her temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code, will result in a payment to him or her of not more than his or her full salary.

(B) The phrase "full salary" as ~~utilized~~USED in this subdivision shall be computed so that it shall not be less than the employee's "average weekly earnings" as that phrase is ~~utilized~~USED in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.

(5) Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award.

(6) When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him or her for the same illness or injury.

(c) Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 44977, 44978, and 44983, and for ~~the~~ purposes of each of these sections, the employee's absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave, provided that if the employee continues to receive temporary disability indemnity, the employee may elect to take as much of his or her accumulated sick leave ~~which~~AS , when added to his or her temporary disability indemnity, will result in a payment to him or her of not more than his or her full salary.

(d) The governing board of a SCHOOL district may, by rule or regulation, provide for an additional leave of absence for industrial accident or illness as it deems appropriate.

(e) During a paid leave of absence, the employee may endorse to the SCHOOL district the temporary disability indemnity checks received on account of the employee's industrial accident or illness. The SCHOOL district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by the salary warrants.

(f) In the absence of rules and regulations adopted by the governing board of a SCHOOL district pursuant to this section, an employee shall be entitled to industrial accident or illness leave as provided in this section but without limitation as to the number of days of ~~this~~THAT leave.

SEC. 63.

Section 45192 of the Education Code is amended to read:

§ 45192.

(a) The governing board of a school district shall provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of a SCHOOL district that is created or whose boundaries or status is changed by an action to organize or reorganize SCHOOL districts completed after the effective date of this section shall provide by rules and regulations for these leaves of absence on or before the date on which the organization or reorganization of the SCHOOL district becomes effective for all purposes.

(b) The rules and regulations shall include the following provisions:

(1) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.

(2) Allowable leave shall not be accumulative from year to year.

(3) Industrial accident or illness leave will commence on the first day of absence.

(4) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.

(5) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

(6) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

(c) The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 45191. When entitlement to industrial accident or illness leave has been exhausted, entitlement or other sick leave will then be used~~;~~, but if an employee is receiving workers' compensation, the employee shall be entitled to use only so much of his or her accumulated or available sick leave, accumulated compensating time, vacation, or other available leave ~~that~~AS , when added to the workers' compensation award, WILL provide for a full day's wage or salary.

(d) The governing board of a SCHOOL district may, by rule or regulation, provide for as much additional leave of absence, paid or unpaid, as it deems appropriate and during this leave the employee may return to his or her position without suffering any loss of status or benefits. The employee shall be notified, in writing, that available paid leave has been exhausted, and shall be offered an opportunity to request additional leave.

(e) A period of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

(f) During a paid leave of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off, or other available leave provided by law or the action of ~~a~~THE governing board of a SCHOOL district, the employee shall endorse to the SCHOOL district wage loss benefit checks received under the workers' compensation laws of this state. The SCHOOL district, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.

(g) When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his or her position, the employee shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the employee shall be employed in a vacant position in the class of the employee's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.

(h) The governing board of a SCHOOL district may require that an employee serve or have served continuously a specified period of time with the SCHOOL district before the benefits provided by

this section are made available to the employee ~~provided that~~BUT this period shall not exceed three years and ~~that~~ all service of the employee ~~prior to~~BEFORE the effective date of this section shall be credited in determining compliance with the requirement.

(i) In the absence of rules and regulations adopted by the governing board of a SCHOOL district, pursuant to this section, an employee shall be entitled to industrial and accident or illness leave as provided in this section but without limitation as to the number of days of this leave and without any requirement of a specified period of service.

(j) An employee who has been placed on a reemployment list, as provided in this section, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

(k) This section ~~shall apply~~APPLIES to SCHOOL districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240).

SEC. 64.

*Section 46392 of the Education Code*is amended to read:

§ 46392.

(a) If the average daily attendance of a school district, county office of education, or charter school during a fiscal year has been materially decreased during a fiscal year because of any of the following, the fact shall be established to the satisfaction of the Superintendent by affidavits of the members of the governing board OR BODY of the school district, county office of education, or charter school and the county superintendent of schools:

(1) Fire.

(2) Flood.

(3) Impassable roads.

(4) Epidemic.

(5) Earthquake.

(6) The imminence of a major safety hazard as determined by the local law enforcement agency.

(7) A strike involving transportation services to pupils provided by a nonschool entity.

(8) An order provided for in Section 41422.

(b) In the event a state of emergency is declared by the Governor in a county, a decrease in average daily attendance in the county below the approximate total average daily attendance that would have been credited to a school district, county office of education, or charter school had the state of emergency not occurred shall be deemed material. The Superintendent shall determine the length of the period during which average daily attendance has been reduced by the state of emergency. ~~This period that is~~THE PERIOD determined by the Superintendent shall not extend into the next fiscal year following the declaration of the state of emergency by the Governor, except upon a showing by a school district, county office of education, or charter school, to the satisfaction of the Superintendent, that extending the period into the next fiscal year is essential to alleviate continued reductions in average daily attendance attributable to the state of emergency.

(c) The average daily attendance of the SCHOOL district, county office of education, or charter school for the fiscal year shall be estimated by the Superintendent in a manner that credits to the school district, county office of education, or charter school for determining the apportionments to be made to the school district, county office of education, or charter school from the State School Fund approximately the total average daily attendance that would have been credited to the school

district, county office of education, or charter school had the emergency not occurred or had the order not been issued.

(d) This section applies to any average daily attendance that occurs during any part of a school year.

SEC. 65.

Section 48204.2 of the Education Code is amended to read:

§ 48204.2.

(a) If a school district elects to undertake an investigation pursuant to subdivision (c) of Section 48204.1, the governing board of the school district shall adopt a policy regarding the investigation of a pupil to determine whether the pupil meets the residency requirements for school attendance in the school district before investigating any pupils.

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

(1) Identify the circumstances upon which the school district may initiate an investigation, which shall, at a minimum, require the school district employee to be able to identify specific, articulable facts supporting the belief that the parent or legal guardian of the pupil has provided false or unreliable evidence of residency.

(2)

(A) Describe the investigatory methods that may be used by the school district in the conduct of the investigation, including whether the school district will be employing the services of a private investigator.

(B) Before hiring a private investigator, the policy shall require the school district to make reasonable efforts to determine whether the pupil resides in the school district.

(3) Prohibit the surreptitious photographing or video-recording of pupils who are being investigated. For purposes of this paragraph, "surreptitious photographing or video-recording" means the covert collection of photographic or videographic images of ~~person~~PERSONS or places subject to an investigation. For purposes of this paragraph, the collection of images is not covert if the technology is used in open and public view.

(4) Require that employees and contractors of the school district engaged in the investigation ~~must~~ identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.

(5) ~~Provide a process whereby the determination of a school district as to whether a pupil meets the residency requirements for school attendance in the school district may be appealed, and shall specify the basis for~~REQUIRE A SCHOOL DISTRICT TO SPECIFY THE BASIS FOR A DETERMINATION OF NONRESIDENCY OF A PUPIL, AND PROVIDE A PROCESS TO APPEAL that determination. If an appeal is made, the burden shall be on the appealing party to show why the decision of the school district should be overruled.

(c) The policy required pursuant to this section shall be adopted at a public meeting of the governing board of the school district.

SEC. 66.

Section 51421.5 of the Education Code, as added by Section 3 of Chapter 384 of the Statutes of 2015, is amended to read:

§ 51421.5.

(a) If, for purposes of this article, a contractor or testing center charges an examinee its own separate fee, the contractor or testing center shall not charge that fee to an examinee who meets all of the following criteria:

(1) The examinee qualifies as a homeless child or youth, as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

(2) The examinee has not attained 25 years of age as of the date of the scheduled examination.

(3) The examinee can verify his or her status as a homeless child or youth. A homeless services provider that has knowledge of the examinee's housing status may verify the examinee's status for purposes of this paragraph.

(b) For purposes of this section, a "homeless services provider" includes either of the following:

(1) A homeless services provider listed in paragraph (3) of subdivision (d) of *Section 103577 of the Health and Safety Code*.

(2) Any other person or entity that is qualified to verify an individual's housing status, as determined by the department.

(c) Additional state funds shall not be appropriated for purposes of implementing this section.

SEC. 63.

Section 45192 of the Education Code is amended to read:

45192.

(a) The governing board of a school district shall provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of a school district that is created or whose boundaries or status is changed by an action to organize or reorganize school districts completed after the effective date of this section shall provide by rules and regulations for these leaves of absence on or before the date on which the organization or reorganization of the school district becomes effective for all purposes.

(b) The rules and regulations shall include the following provisions:

(1) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.

(2) Allowable leave shall not be accumulative from year to year.

(3) Industrial accident or illness leave will commence on the first day of absence.

(4) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.

(5) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

(6) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

(c) The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 45191. When entitlement to industrial accident or illness leave has been exhausted, entitlement or other sick leave will then be used, but if an employee is receiving workers' compensation, the employee shall be entitled to use only so much of his or her accumulated or available sick leave, accumulated compensating time, vacation, or other available leave as, when added to the workers' compensation award, will provide for a full day's wage or salary.

(d) The governing board of a school district may, by rule or regulation, provide for as much additional leave of absence, paid or unpaid, as it deems appropriate and during this leave the employee may return to his or her position without suffering any loss of status or benefits. The employee shall be notified, in writing, that available paid leave has been exhausted, and shall be offered an opportunity to request additional leave.

(e) A period of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

(f) During a paid leave of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off, or other available leave provided by law or the action of the governing board of a school district, the employee shall endorse to the school district wage loss benefit checks received under the workers' compensation laws of this state. The school district, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.

(g) When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his or her position, the employee shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the employee shall be employed in a vacant position in the class of the employee's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.

(h) The governing board of a school district may require that an employee serve or have served continuously a specified period of time with the school district before the benefits provided by this section are made available to the employee but this period shall not exceed three years and all service of the employee before the effective date of this section shall be credited in determining compliance with the requirement.

(i) In the absence of rules and regulations adopted by the governing board of a school district, pursuant to this section, an employee shall be entitled to industrial and accident or illness leave as provided in this section but without limitation as to the number of days of this leave and without any requirement of a specified period of service.

(j) An employee who has been placed on a reemployment list, as provided in this section, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

(k) This section applies to school districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240).

SEC. 64.

Section 46392 of the Education Code is amended to read:

46392.

(a) If the average daily attendance of a school district, county office of education, or charter school during a fiscal year has been materially decreased during a fiscal year because of any of the following, the fact shall be established to the satisfaction of the Superintendent by affidavits of the members of the governing board or body of the school district, county office of education, or charter school and the county superintendent of schools:

(1) Fire.

(2) Flood.

(3) Impassable roads.

(4) Epidemic.

(5) Earthquake.

(6) The imminence of a major safety hazard as determined by the local law enforcement agency.

(7) A strike involving transportation services to pupils provided by a nonschool entity.

(8) An order provided for in Section 41422.

(b) In the event a state of emergency is declared by the Governor in a county, a decrease in average daily attendance in the county below the approximate total average daily attendance that would have been credited to a school district, county office of education, or charter school had the state of emergency not occurred shall be deemed material. The Superintendent shall determine the length of the period during which average daily attendance has been reduced by the state of emergency. The period determined by the Superintendent shall not extend into the next fiscal year following the declaration of the state of emergency by the Governor, except upon a showing by a school district, county office of education, or charter school, to the satisfaction of the Superintendent, that extending the period into the next fiscal year is essential to alleviate continued reductions in average daily attendance attributable to the state of emergency.

(c) The average daily attendance of the school district, county office of education, or charter school for the fiscal year shall be estimated by the Superintendent in a manner that credits to the school district, county office of education, or charter school for determining the apportionments to be made to the school district, county office of education, or charter school from the State School Fund approximately the total average daily attendance that would have been credited to the school district, county office of education, or charter school had the emergency not occurred or had the order not been issued.

(d) This section applies to any average daily attendance that occurs during any part of a school year.

SEC. 65.

Section 48204.2 of the Education Code is amended to read:

48204.2.

(a) If a school district elects to undertake an investigation pursuant to subdivision (c) of Section 48204.1, the governing board of the school district shall adopt a policy regarding the investigation of a pupil to determine whether the pupil meets the residency requirements for school attendance in the school district before investigating any pupils.

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

(1) Identify the circumstances upon which the school district may initiate an investigation, which shall, at a minimum, require the school district employee to be able to identify specific, articulable facts supporting the belief that the parent or legal guardian of the pupil has provided false or unreliable evidence of residency.

(2)

(A) Describe the investigatory methods that may be used by the school district in the conduct of the investigation, including whether the school district will be employing the services of a private investigator.

(B) Before hiring a private investigator, the policy shall require the school district to make reasonable efforts to determine whether the pupil resides in the school district.

(3) Prohibit the surreptitious photographing or video-recording of pupils who are being investigated. For purposes of this paragraph, “surreptitious photographing or video-recording” means the covert collection of photographic or videographic images of persons or places subject to an

investigation. For purposes of this paragraph, the collection of images is not covert if the technology is used in open and public view.

(4) Require that employees and contractors of the school district engaged in the investigation identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.

(5) Require a school district to specify the basis for a determination of nonresidency of a pupil, and provide a process to appeal that determination. If an appeal is made, the burden shall be on the appealing party to show why the decision of the school district should be overruled.

(c) The policy required pursuant to this section shall be adopted at a public meeting of the governing board of the school district.

SEC. 66.

Section 51421.5 of the Education Code, as added by Section 3 of Chapter 384 of the Statutes of 2015, is amended to read:

51421.5. (a) If, for purposes of this article, a contractor or testing center charges an examinee its own separate fee, the contractor or testing center shall not charge that fee to an examinee who meets all of the following criteria:

(1) The examinee qualifies as a homeless child or youth, as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

(2) The examinee has not attained 25 years of age as of the date of the scheduled examination.

(3) The examinee can verify his or her status as a homeless child or youth. A homeless services provider that has knowledge of the examinee's housing status may verify the examinee's status for purposes of this paragraph.

(b) For purposes of this section, a "homeless services provider" includes either of the following:

(1) A homeless services provider listed in paragraph (3) of subdivision (d) of *Section 103577 of the Health and Safety Code*.

(2) Any other person or entity that is qualified to verify an individual's housing status, as determined by the department.

(c) Additional state funds shall not be appropriated for purposes of implementing this section.

(d) Notwithstanding subdivision (c), the Superintendent may use surplus funds in the Special Deposit Fund Account, established pursuant to Section 51427, to reimburse contractors for the loss of fees, if any, pursuant to this section. A contract executed by the department for the provision of examinations pursuant to Section 51421 or this section shall require that any contracting party accept all examinees, including those entitled to a fee waiver pursuant to this section. For purposes of this subdivision, "surplus funds" are funds remaining after the costs permitted by subdivision (a) of Section 51421 are paid.

(e) On or before December 1, 2018, the Superintendent shall submit a report to the appropriate policy and fiscal committees of the Legislature that includes, but is not limited to, all of the following:

(1) The number of homeless youth that took a high school equivalency test in each of the 2016, 2017, and 2018 calendar years.

(2) The impact of the opportunity to take a high school equivalency test at no cost on the number and percentage of homeless youth taking a high school equivalency test.

(3) The estimated number of homeless youth who may take a high school equivalency test in future years.

(4) Recommendations for a permanent funding source to cover the cost of the waived fees.

(5) The annual and projected administrative cost to the department.

(6) The annual and projected reimbursement to the contractor pursuant to this section.

(f) The Superintendent shall adopt emergency regulations, as necessary, to implement this section. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(g) The department shall include a provision in all memorandums of understanding with contractors for purposes of providing a high school equivalency test, that if the surplus funds in the Special Deposit Fund Account are depleted, the ongoing costs of a fee waiver for an examinee deemed eligible for a waiver pursuant to this section shall be absorbed by the contractor.

(h) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 67.

Section 51745.6 of the Education Code is amended to read:

51745.6.

(a)

(1) The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the department, shall not exceed the equivalent ratio of average daily attendance to full-time equivalent certificated employees providing instruction in other educational programs operated by the school district, unless a new higher or lower average daily attendance ratio for all other educational programs offered is negotiated in a collective bargaining agreement or a memorandum of understanding is entered into that indicates an existing collective bargaining agreement contains an alternative average daily attendance ratio.

(2) The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the department, shall not exceed the equivalent prior year ratio of average daily attendance to full-time equivalent certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county or the collectively bargained alternative ratio used by that high school or unified school district in the prior year, unless a new higher or lower average daily attendance ratio for all other educational programs offered is negotiated in a collective bargaining agreement or a memorandum of understanding is entered into that indicates an existing collective bargaining agreement contains an alternative average daily attendance ratio. The computation of the ratios shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratios described in subdivision (a) shall be eligible for apportionment pursuant to Section 2575, for county offices of education, and Section 42238.05, for school districts. This section does not prevent a school district or county office of education from serving additional units of average daily attendance greater than the ratios described in subdivision (a), except that those additional units shall not be funded pursuant to Section 2575 or 42238.05, as applicable. If a school district, charter school, or county office of education has a memorandum of understanding to provide instruction in coordination with the school district, charter school, or

county office of education at which a pupil is enrolled, the ratios that shall apply for purposes of this paragraph are the ratios for the local educational agency providing the independent study program to the pupil pursuant to Section 51749.5.

(c) The calculations performed for purposes of this section shall not include either of the following:

(1) The average daily attendance generated by special education pupils enrolled in special day classes on a full-time basis, or the teachers of those classes.

(2) The average daily attendance or teachers in necessary small schools that are eligible to receive funding pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of Division 3.

(d) The applicable average-daily-attendance-to-certificated-employee ratios described in subdivision (a) may, in a charter school, be calculated by using a fixed average-daily-attendance-to-certificated-employee ratio of 25 to 1, or by using a ratio of less than 25 pupils per certificated employee. A new higher or lower ratio for all other educational programs offered by a charter school may be negotiated in a collective bargaining agreement, or a memorandum of understanding indicating that an existing collective bargaining agreement contains an alternative average daily attendance ratio may be entered into by a charter school. All charter school pupils, regardless of age, shall be included in the applicable average-daily-attendance-to-certificated-employee ratio calculations.

SEC. 68.

Section 66302 of the Education Code is amended to read:

66302. The Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district are requested to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior within their respective segments of public postsecondary education. It is the intent of the Legislature that rules and regulations governing student conduct be published, at a minimum, on the Internet Web site of each public postsecondary educational campus and as part of any printed material covering those rules and regulations within the respective public postsecondary education system.

SEC. 69.

Section 66749.5 of the Education Code is amended to read:

66749.5.

(a) The Office of the Chancellor of the California Community Colleges shall report to the Legislature on or before December 1, 2016, the status of each community college's compliance with the provisions of this article related to creating associate degrees for transfer.

(b) The California State University shall submit two reports to the Legislature on campus acceptance of transfer model curricula by concentration, on or before December 1, 2016, and on or before December 1, 2017, respectively.

(c)

(1) The California State University shall annually, commencing December 1, 2016, publicly post available data on all of the following:

(A) The number of students admitted with an associate degree for transfer.

(B) The proportion of students with an associate degree for transfer who graduate from the California State University within two or three years.

(C) The number of students with an associate degree for transfer who applied to a campus of the California State University and were redirected to another campus than that indicated in the application.

(D) The number of students described in subparagraph (C) who ultimately enrolled at a California State University campus.

(2) This subdivision shall become inoperative on November 30, 2021.

(d)

(1) The requirements for submitting reports on or before December 1, 2016, imposed under subdivisions (a) and (b) are inoperative on December 1, 2020, and the requirement for submitting a report on or before December 1, 2017, imposed under subdivision (b) is inoperative on December 1, 2021, pursuant to *Section 10231.5 of the Government Code*.

(2) Reports to be submitted pursuant to subdivisions (a) and (b) shall be submitted in compliance with *Section 9795 of the Government Code*.

(e) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 70.

*Section 69800.2 of the Education Code*is amended to read:

69800.2.

(a) Before certifying a borrower's eligibility for a private student loan, a public, private, or independent postsecondary educational institution shall provide to the student information concerning all unused state and federal financial assistance, including unused federal student loan moneys available to that student.

(b) An institution that does not participate in federal student loan programs shall inform students that the institution does not participate in federal loan programs and that students may be eligible for federal loans at a participating institution. The institution shall provide the student with information regarding the Cal Grants Web link on the California Student Aid Commission's Internet Web site and the Federal Student Aid Web link on the United States Department of Education's Internet Web site.

SEC. 71.

*Section 70037 of the Education Code*is amended to read:

70037.

(a) The Trustees of the California State University and the Regents of the University of California shall adopt regulations providing for the withholding of institutional services from a student or former student who has been notified in writing at the student's or former student's last known address that he or she is in default on a loan or loans under the DREAM Program.

(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to either the Trustees of the California State University or the Regents of the University of California, as applicable, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student, which may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

(c) "Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note if the institution holding the loan finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(d) This section does not impose any requirement upon the University of California unless the Regents of the University of California, by resolution, makes this section applicable.

SEC. 72.

Section 84750.5 of the Education Code is amended to read:

84750.5.

(a) The board of governors, in accordance with the statewide requirements contained in paragraphs (1) to (9), inclusive, of subdivision (d), and in consultation with institutional representatives of the California Community Colleges and statewide faculty and staff organizations, so as to ensure their participation in the development and review of policy proposals, shall develop criteria and standards for the purpose of making the annual budget request for the California Community Colleges to the Governor and the Legislature, and for the purpose of allocating the state general apportionment revenues.

(b) In developing the criteria and standards, the board of governors shall use and strongly consider the recommendations and work product of the "System Office Recommendations Based on the Report of the Work Group on Community College Finance" that was adopted by the board at its meeting of March 7, 2005. The board of governors shall complete the development of these criteria and standards, accompanied by the necessary procedures, processes, and formulas for using its criteria and standards, by March 1, 2007, and shall submit on or before that date a report on these items to the Legislature and the Governor.

(c)

(1) It is the intent of the Legislature in enacting this section to improve the equity and predictability of general apportionment and growth funding for community college districts in order that the districts may more readily plan and implement instruction and related programs, more readily serve students according to the policies of the state's master plan for higher education, and enhance the quality of instruction and related services for students.

(2) It is the intent of the Legislature to determine the amounts to be appropriated for purposes of this section through the annual Budget Act. Nothing in this section shall be construed as limiting the authority either of the Governor to propose, or the Legislature to approve, appropriations for California Community Colleges programs or purposes.

(d) The board of governors shall develop the criteria and standards within the following statewide minimum requirements:

(1) The calculations of each community college district's revenue level for each fiscal year shall be based on the level of general apportionment revenues, state and local, the community college district received for the prior year plus any amount attributed to a deficit from the adopted standards to be developed pursuant to this section, with revenue adjustments being made for increases or decreases in full-time equivalent students (FTES), for equalization of funding per credit FTES, for necessary alignment of funding per FTES between credit and noncredit programs, for inflation, and for other purposes authorized by law.

(2) Commencing with the 2006-07 fiscal year, the funding mechanism developed pursuant to this section shall recognize the need for community college districts to receive an annual allocation based on the number of colleges and comprehensive centers in the community college district. In addition to this basic allocation, the marginal amount of credit revenue allocated per FTES shall be funded at a rate not less than four thousand three hundred sixty-seven dollars ($ 4,367), as adjusted for the change in the cost-of-living in subsequent annual budget acts.

(A) To the extent that the Budget Act of 2006 contains an appropriation of one hundred fifty-nine million four hundred thirty-eight thousand dollars ($ 159,438,000) for community college equalization, the Legislature finds and declares that community college equalization for credit FTES has been effectively accomplished as of March 31, 2007.

(B) The chancellor shall develop criteria for the allocation of one-time grants for those community college districts that would have qualified for more equalization under prior law than pursuant to this section and the Budget Act of 2006, and for those community college districts that would have qualified for more funding under a proposed rural college access grant than pursuant to this section and the Budget Act of 2006, as determined by the chancellor. Appropriations for the one-time grants shall be provided pursuant to paragraph (24) of subdivision (a) of Section 43 of Chapter 79 of the Statutes of 2006.

(3) Noncredit instruction shall be funded at a uniform rate of two thousand six hundred twenty-six dollars ($ 2,626) per FTES, as adjusted for the change in the cost of living provided in subsequent annual budget acts.

(4) Funding for instruction in career development and college preparation, as authorized pursuant to Section 84760.5, shall be provided as follows:

(A)

(i) Beginning in the 2006-07 fiscal year, career development and college preparation FTES may be funded at a rate of three thousand ninety-two dollars ($ 3,092) per FTES for courses in programs that conform to the requirements of Section 84760.5. This rate shall be adjusted for the change in the cost of living or as otherwise provided in subsequent annual budget acts.

(ii) Beginning in the 2015-16 fiscal year, career development and college preparation FTES shall be funded at the same level as the credit rate specified in paragraph (2). This rate shall be adjusted for the change in the cost of living or as otherwise provided in subsequent annual budget acts.

(iii) The Legislative Analyst shall report to the Legislature on or before March 1, 2017, regarding the change in funding specified in clause (ii), including whether community colleges offered additional classes or programs related to career development or college preparation, and whether there was any change in FTES.

(iv)

(I) The requirement for submitting a report imposed under clause (iii) is inoperative on March 30, 2019, pursuant to *Section 10231.5 of the Government Code*.

(II) A report submitted pursuant to clause (iii) shall be submitted in compliance with *Section 9795 of the Government Code*.

(B) Changes in career development and college preparation FTES shall result in adjustments to revenues as follows:

(i) Increases in career development and college preparation FTES shall result in an increase in revenues in the year of the increase and at the average rate per career development and college preparation FTES, including any cost-of-living adjustment authorized by statute or by the annual Budget Act.

(ii) Decreases in career development and college preparation FTES shall result in a revenue reduction in the year following the decrease at the average rate per career development and college preparation FTES.

(5) Except as otherwise provided by statute, current categorical programs providing direct services to students, including extended opportunity programs and services, and disabled students programs and services, shall continue to be funded separately through the annual Budget Act, and shall not be assumed under the budget formula otherwise specified by this section.

(6) For credit and noncredit instruction, changes in FTES shall result in adjustments in community college district revenues as follows:

(A) Increases in FTES shall result in an increase in revenues in the year of the increase and at the amount per FTES provided for in paragraph (2) or (3), as appropriate, including any cost-of-living adjustment authorized by statute or by the annual Budget Act.

(B) Decreases in FTES shall result in revenue reductions beginning in the year following the initial year of decrease in FTES, and at the district's marginal funding per FTES.

(C) Community college districts shall be entitled to the restoration of any reductions in apportionment revenue due to decreases in FTES during the three years following the initial year of decrease in FTES if there is a subsequent increase in FTES.

(7) Revenue adjustments shall be made to reflect cost changes, using the same inflation adjustment as required for school districts pursuant to paragraph (2) of subdivision (d) of Section 42238.02. These revenue adjustments shall be made to the college and center basic allocations, credit and noncredit FTES funding rates, and career development and college preparation FTES funding rates.

(8) The statewide requested increase in budgeted workload FTES shall be based, at a minimum, on the sum of the following computations:

(A) Determination of an equally weighted average of the rate of change in the state's population of persons between the ages of 19 and 24 and the rate of change in the state's population of persons between the ages of 25 and 65, both as determined by the Department of Finance's Demographic Research Unit as determined for the preceding fiscal year.

(B) To the extent the state's unemployment rate exceeds 5 percent for the most recently completed fiscal year, that positive difference shall be added to the rate computed in subparagraph (A). In no event shall that positive difference exceed 2 percent.

(C) The chancellor may also add to the amounts calculated pursuant to subparagraphs (A) and (B) the number of FTES in the areas of transfer, vocational education, and basic skills that were unfunded in the current fiscal year. For this purpose, the following computation shall be determined for each community college district, and a statewide total shall be calculated:

(i) Establish the base level of FTES earned in the prior fiscal year for transfer courses consisting of courses meeting the California State University breadth or Intersegmental General Education Transfer Curriculum requirements or major course prerequisites accepted by the University of California or the California State University.

(ii) Establish the base level of FTES earned in the prior fiscal year for vocational education courses consisting of courses defined by the chancellor's office Student Accountability Model codes A and B that are consistent with the courses used for measuring success in this program area under the accountability system established pursuant to Section 84754.5.

(iii) Establish the base level of FTES in the prior fiscal year for basic skills courses, both credit and noncredit.

(iv) Add the sum of FTES for clauses (i) to (iii), inclusive.

(v) Multiply the result of the calculation made under clause (iv) by one plus the community college district's funded growth rate in the current fiscal year. This figure shall represent the maintenance of effort level for the budget year.

(vi) FTES in transfer, vocational education, and basic skills that are in excess of the total calculated pursuant to clause (v), shall be considered in excess of the maintenance of effort level, and shall be eligible for overcap growth funding if the community college district exceeds its overall funded FTES.

(vii) In no event shall the amount calculated pursuant to clause (vi) exceed the total unfunded FTES for that fiscal year. To the extent the computation specified in subdivision (c) requires the reporting of additional data by community college districts, that reporting shall be a condition of the receipt of apportionment for growth pursuant to this section and those funds shall be available to offset any and all costs of providing the data.

(9) Except as specifically provided in statute, regulations of the board of governors for determining and allocating the state general apportionment to the community college districts shall not require community college district governing boards to expend the allocated revenues in specified categories of operation or according to the workload measures developed by the board of governors.

(e)

(1) The Chancellor of the Community Colleges shall develop, and the board of governors shall adopt, a revised apportionment growth formula for use commencing with the 2015-16 fiscal year. The chancellor shall allocate apportionments pursuant to the revised formula only after the revised formula, and any formulas for adjustment pursuant to paragraph (2), have been adopted by the board of governors. The revised apportionment growth formula shall support the primary missions of the segment, and shall be based on each community's need for access to the community colleges, as determined by local demographics. In developing the revised formula, the chancellor shall consider multiple factors in determining need; however, the primary factors shall be:

(A)

(i) The number of persons under 25 years of age without a college degree, within a community college district's boundaries, and the number of persons 25 to 64 years of age, inclusive, without a college degree, within a community college district's boundaries.

(ii) Notwithstanding clause (i), the chancellor may use alternative age ranges depending on the availability of data.

(B) The number of persons who are unemployed, have limited English skills, who are in poverty, or who exhibit other signs of being disadvantaged, as determined by the chancellor, within a community college district's boundaries.

(2) Beginning with the 2016-17 fiscal year, the chancellor shall adjust upward the need determination based on each community college's effectiveness in serving residents of neighborhoods, within or outside of the community college district's boundaries, that exhibit the highest levels of need in the state.

(3) The chancellor shall calculate each community college district's proportionate share of the statewide need for access to the community colleges based on the application of this formula described in paragraph (1), as adjusted pursuant to paragraph (2).

(4) The chancellor shall calculate the difference between each community college district's proportionate share of the statewide need for access to the community colleges, as calculated pursuant to paragraph (3), and its current proportionate share of statewide enrollment in the community colleges.

(5)

(A) Until a community college district reaches its highest level of apportionment revenues previously received, its apportionment revenues shall be eligible to increase by the lesser of 1 percent of its current apportionment base, or one-half of the statewide growth allocation on a proportionate basis, regardless of need.

(B) After a community college district reaches its highest level of apportionment revenues previously received, it is eligible to increase its apportionment revenues by the lesser of one-half of 1 percent of its current apportionment base, or one-quarter of the statewide growth allocation on a proportionate basis, regardless of its need.

(6) The remainder of the apportionment growth funding shall be allocated to allow each community college district to grow its apportionment revenues based on its relative share of the difference between the amounts calculated in paragraph (4), up to a maximum of its apportionment base for the preceding fiscal year appropriate to ensure that community college district is advancing the primary missions of the segment. The maximum established by the chancellor shall not be less than 5 percent nor greater than 10 percent of a community college district's apportionment base for the preceding fiscal year.

(7) Unless otherwise agreed upon by the board of governors, apportionment reductions shall be allocated proportionally based on the most recent levels of apportionment revenues.

(8)

(A) It is the intent of the Legislature, consistent with direction provided in the 2014-15 Budget Act, that apportionment growth funding be expended for purposes of increasing the number of FTES in courses or programs that support the primary missions of the segment.

(B)

(i) Notwithstanding *Section 10231.5 of the Government Code*, on or before October 15, 2015, and each year thereafter, the chancellor shall report to the Legislature on the course sections and FTES added at each community college that received apportionment growth funding in the prior fiscal year, including the number of course sections and if any course sections and FTES were added that are within the primary missions of the segment and those that are not within the primary missions of the segment.

(ii) A report submitted to the Legislature pursuant to clause (i) shall be submitted in compliance with *Section 9795 of the Government Code*.

(C) For purposes of this section, "primary missions of the segment" means credit courses and those noncredit courses specified in paragraphs (2) to (6), inclusive, of subdivision (a) of Section 84757.

(f)

(1) It is the intent of the Legislature to allow for changes to the criteria and standards developed pursuant to subdivisions (a) to (d), inclusive, in order to recognize increased operating costs and to improve instruction.

(2)

(A) If the annual budget act identifies funds appropriated specifically for the purposes of this subdivision, the chancellor shall adjust the budget request formula to allocate those funds without altering any of the adjustments described in subdivision (d). At least 30 days before allocating any state general apportionment revenues using a budget request formula revised pursuant to this subdivision, the chancellor shall submit to the Department of Finance and the Legislature a description of the specific adjustments made to the budget request formula.

(B) A report to the Legislature pursuant to subparagraph (A) shall be submitted in compliance with *Section 9795 of the Government Code*.

SEC. 73.

Section 84916 of the Education Code is amended to read:

84916. In order to maximize the benefits derived from public funds provided for the purpose of addressing the educational needs of adults and to ensure the efficient and coordinated use of resources, it is the intent and expectation of the Legislature that any community college district, school district, or county office of education, or any joint powers authority consisting of community college districts, school districts, county offices of education, or a combination of these, located within the boundaries of the adult education region shall be a member of a consortium pursuant to this article if it receives funds from any of the following programs or allocations:

(a) The Adults in Correctional Facilities program.

(b) The federal Adult Education and Family Literacy Act (Title II of the federal Workforce Innovation and Opportunity Act).

(c) The federal Carl D. Perkins Career and Technical Education Act (*Public Law 109-270*).

(d) Local control funding formula apportionments received for students who are 19 years of age or older.

(e) Community college apportionments received for providing instruction in courses in the areas listed in subdivision (a) of Section 84913.

(f) State funds for remedial education and job training services for participants in the CalWORKs program.

SEC. 74.

Section 87787 of the Education Code is amended to read:

87787.

(a) The governing board of a community college district shall provide by rules and regulations for industrial accident and illness leaves of absence for all academic employees. The governing board of a community college district that is created or whose boundaries or status is changed by an action to organize or reorganize community college districts completed after January 1, 1976, shall provide by rules and regulations for those leaves of absence on or before the date on which the organization or reorganization of the community college district becomes effective.

(b) The rules or regulations shall include all of the following provisions:

(1) Allowable leave shall be for not less than 60 days during which the community colleges of the district are required to be in session or when the employee would otherwise have been performing work for the community college district in any one fiscal year for the same accident.

(2) Allowable leave shall not be accumulated from year to year.

(3) Industrial accident or illness leave shall commence on the first day of absence.

(4)

(A) When an academic employee is absent from his or her duties on account of an industrial accident or illness, the employee shall be paid the portion of the salary due him or her for any month in which the absence occurs as, when added to his or her temporary disability indemnity under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with *Section 6100) of the Labor Code*, will result in a payment to the employee of not more than his or her full salary.

(B) The phrase "full salary," as used in this subdivision, shall be computed so that it shall not be less than the employee's "average weekly earnings" as that phrase is used in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.

(5) Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award.

(6) When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him or her for the same illness or injury.

(c) Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 87780, 87781, and 87786, and, for purposes of each of these sections, his or her absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave. However, if the employee continues to receive temporary disability indemnity, he or she may elect to take as much of his or her accumulated sick leave as, when added to his or her temporary disability indemnity, will result in a payment to the employee of not more than his or her full salary.

(d) The governing board of a community college district, by rule or regulation, may provide for additional leave of absence for industrial accident or illness as it deems appropriate.

(e) During a paid leave of absence, the employee may endorse to the community college district the temporary disability indemnity checks received on account of his or her industrial accident or illness. The community college district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by the salary warrants.

(f) In the absence of rules and regulations adopted by the governing board of a community college district pursuant to this section, an employee shall be entitled to industrial accident or illness leave as provided in this section but without limitation as to the number of days of leave.

SEC. 75.

*Section 88192 of the Education Code*is amended to read:

88192.

(a) The governing board of a community college district shall provide, by rules and regulations, for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of a community college district that is created or whose boundaries or status is changed by an action to organize or reorganize community college districts completed after January 1, 1975, shall provide, by rules and regulations, for these leaves of absence on or before the date on which the organization or reorganization of the community college district becomes effective for all purposes.

(b) The rules and regulations shall include all of the following provisions:

(1) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.

(2) Allowable leave shall not be accumulative from year to year.

(3) Industrial accident or illness leave of absence shall commence on the first day of absence.

(4) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.

(5) Industrial accident leave shall be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

(6) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

(c) The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 88191. When entitlement to industrial accident or illness leave has been exhausted, entitlement to other sick leave will then be used, but if an employee is receiving workers' compensation, the employee shall be entitled to use only so much of his or her accumulated or available sick leave, accumulated compensating time, vacation or other available leave as, when added to the workers' compensation award, provide for a full day's wage or salary.

(d) The governing board of a community college district, by rule or regulation, may provide for additional leave of absence, paid or unpaid, as it deems appropriate and during that leave the employee may return to his or her position without suffering any loss of status or benefits.

(e) A period of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

(f) During a paid leave of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off or other available leave provided by law or the action of a governing board of a community college district, the employee shall endorse to the community college district wage loss benefit checks received under the workers' compensation laws of this state. The community college district, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.

(g) When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his or her position, the employee, if not placed in another position, shall be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the employee shall be employed in a vacant position in the class of his or her previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.

(h) The governing board of a community college district may require that an employee serve, or have served continuously, a specified period of time with the community college district before the benefits provided by this section are made available to the employee. However, that period shall not exceed three years. All service of an employee before the effective date of this section shall be credited in determining compliance with the requirement.

(i) In the absence of rules and regulations adopted by the governing board of a community college district pursuant to this section, an employee shall be entitled to industrial and accident or illness leave as provided in this section but without limitation as to the number of days of that leave and without any requirement of a specified period of service.

(j) An employee who has been placed on a reemployment list, as provided in this section, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

(k) This section applies to community college districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).

SEC. 76.

Section 89090 of the Education Code is amended to read:

89090.

(a) The trustees, alumni associations, and auxiliary organizations may distribute the names, addresses, and email addresses of alumni of the California State University to a business as described in subdivision (b), in order to accomplish any or all of the following:

(1) To provide those persons with informational materials relating to the university and its programs and activities.

(2) To provide those persons, the trustees, the alumni associations, and the auxiliary organizations with commercial opportunities that provide a benefit to those persons, or to the trustees, alumni associations, or auxiliary organizations.

(3) To promote and support the educational mission of the university, the trustees, the alumni associations, or the auxiliary organizations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1)

(A) The trustees, the alumni associations, or the auxiliary organizations have a written agreement with a business, as defined in subdivision (a) of *Section 1798.80 of the Civil Code*, that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and email addresses of the alumni, that requires that the California State University retain the right to approve or reject any purpose for which the private information is to be used by the business, and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the trustees, the affected alumni association, or the affected auxiliary organization unless and until the mailing conspicuously identifies the university, the alumni association, or the auxiliary organization as associated with the business described in the mailing.

(B) If an affinity partner, as defined in *Section 4054.6 of the Financial Code*, sends any message to an email address obtained pursuant to this section, that message shall include at least both of the following:

(i) The identity of the sender of the message.

(ii) A cost-free means for the recipient to notify the sender not to electronically transmit any further message to the recipient.

(2) The trustees, an alumni association, or an auxiliary organization shall not disclose to, or share alumni nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the alumnus, pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and email addresses does not include the names, addresses, and email addresses of alumni who, pursuant to subdivision (c) or in another manner, have directed the trustees, an alumni association, or an auxiliary organization not to disclose their names, addresses, or email addresses.

(4) Information regarding either of the following is not disclosed:

(A) The current students of the California State University.

(B) An alumnus who, as a student at a campus of the California State University, indicated that, pursuant to the federal Family Educational Rights and Privacy Act (*Public Law 93-380*), he or she did not wish his or her name, address, and email address to be disclosed.

(c)

(1) The trustees, the affected alumni association, or the affected auxiliary organization shall satisfy the notice requirements of subdivision (b) if it uses the form set forth in paragraph (2). The form set forth in this subdivision or a form that complies with subparagraphs (A) to (J), inclusive, shall be provided by the trustees, the alumni association, or the auxiliary organization to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the trustees, the alumni association, or the auxiliary organization regarding the sharing of his or her name, address, and email address:

(A) The form uses the title “IMPORTANT PRIVACY CHOICE” and the header, if applicable, as follows: “Restrict Information Sharing With Affinity Partners.”

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form may be provided as a separate document, incorporated into another communication piece intended for the target audience, or provided through a link to the form located on the Internet Web site of the trustees, the affected alumni association, or the affected auxiliary organization. If the form is provided through a link to an Internet Web page, it shall be accompanied by the title “IMPORTANT PRIVACY CHOICE” and a clear and concise description of the choice that can be made by accessing the form. This requirement may be met by using text materially similar to the first paragraph of the form set forth in paragraph (2).

(D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences of an average of 15 to 20 words, or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2)

The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and email address with our affinity partners (companies that we partner with to offer products or services to our alumni). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and email address with our affinity partners. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With Affinity Partners:

Unless you say “NO,” we may share your name, address, and email address with our affinity partners. Our affinity partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

( ) NO, please do not share my name, address, and email address with your affinity partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our affinity partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and email address with our affinity partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

(1) Call this toll-free telephone number:(xxx-xxx-xxxx).

(2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.

(3)

Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

Xxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxx

Name:

Address:

Signature:

(3)

(A) The trustees, the affected alumni association, or the affected auxiliary organization shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, addresses, and email addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B)

(i) The solicitation to students, upon their graduation, from the trustees or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.

(ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.

(iii) The Internet Web site for the alumni association shall include a link to the form, which shall be located on either the homepage of the association's Internet Web site or in the association's privacy policy.

(iv) A one-time mailing to all alumni on the university mailing list as of January 1, 2006, shall include the form.

(v) An annual electronic communication to those alumni for whom email addresses are available shall include the form.

(4) The trustees, the affected alumni associations, or the affected auxiliary organizations shall provide at least two alternative cost-free means for alumni to communicate their privacy choices, such as calling a toll-free telephone number or using electronic means. The trustees, the alumni association, or the auxiliary organization shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the alumnus on how to communicate his or her choice, including the toll-free telephone or facsimile number or Internet Web site address that may be used, if those means of communication are offered.

(5)

(A) An alumnus may direct at any time that his or her name, address, and email address not be disclosed. The trustees, the affected alumni association, or the affected auxiliary organization shall comply with the direction of an alumnus concerning the sharing of his or her name, address, and email address within 45 days of receipt by the trustees, the alumni association, or the auxiliary organization. When an alumnus directs that his or her name, address, and email address not be disclosed, that direction is in effect until otherwise stated by the alumnus.

(B) This subdivision does not prohibit the disclosure of the name, address, and email address of an alumnus as allowed by other applicable state laws.

(6) The trustees, or the affected alumni association or the affected auxiliary organization, may provide a joint notice from the trustees or from one or more alumni associations, as identified in the notice, so long as the notice is accurate with respect to the trustees and the alumni association or associations or auxiliary organization or organizations participating in the joint notice.

(d) As used in this section, "auxiliary organization" has the same meaning as set forth in Section 89901.

(e) This section shall not be construed to authorize the release of any social security numbers.

SEC. 77.

Section 89708 of the Education Code is amended to read:

89708.

(a) Tuition fees adequate, in the long run, to meet the cost of maintaining special sessions in the California State University shall be required of, and collected from, students enrolled in each special session pursuant to rules and regulations prescribed by the trustees.

(b) "Special sessions," as used in this division, means self-supporting instructional programs conducted by the California State University. The special sessions shall include, but not necessarily be limited to, career enrichment and retraining programs. It is the intent of the Legislature that those

programs, currently offered on a self-supporting basis by the California State University during summer sessions, may be provided throughout the year, and shall be known as special sessions. The self-supporting special sessions shall not supplant, as defined in subdivision (c), regular course offerings available on a non-self-supporting basis during the regular academic year.

(c) "Supplant," as used in this section, means reducing the number of state-supported course offerings while increasing the number of self-supporting versions of that course.

(d) To the extent possible, each campus shall ensure that any course required as a condition of undergraduate degree completion for a state-supported matriculated student shall be offered as a state-supported course. A campus shall not require a state-supported matriculated student to enroll in a special session course in order to fulfill a graduation requirement for a state-supported degree program.

SEC. 78.

Section 89712 of the Education Code is amended to read:

89712.

(a)

(1) Neither a campus of the California State University, nor the Chancellor of the California State University shall approve a new student success fee or an increase to an existing student success fee, as defined in subdivision (g), before all of the following requirements are satisfied:

(A) The campus undertakes a rigorous consultation process that informs and educates students on the uses, impact, and cost of any proposed student success fee or student success fee increase.

(B) The campus informs its students of all of the following circumstances, which shall apply to these fees:

(i) That, except as provided in clauses (ii) and (iii), a student success fee may be rescinded by a majority vote of the students, as specified in subdivision (c).

(ii) That a student success fee shall not be rescinded earlier than six years following the vote to implement the fee.

(iii) If any portion of the student success fee is committed to support a long-term obligation, that portion of the fee shall not be rescinded until the obligation has been satisfied.

(C) The campus shall hold a binding student election on the implementation of any proposed student success fees, or any increase to an existing student success fee, and a majority of the student body voting on the fee must vote affirmatively.

(2) Implementation of a fee supported by a majority of the campus student body voting on the fee is contingent upon the final approval of the Chancellor of the California State University.

(3) A student success fee proposal shall not be brought before the student body more frequently than once per academic year.

(b) A student success fee in place on January 1, 2016, may be rescinded by a binding student vote under the procedures authorized in subdivision (c) only after at least six years have elapsed following the implementation of the fee.

(c)

(1) Student success fees may be rescinded with a binding student vote if a simple majority of those students voting vote to rescind the fee. The student vote shall comply with all of the following:

(A) A campus decision to vote is formally approved by the recognized student government.

(B) Rescission vote proposals shall not be brought before the student body more frequently than once per academic year.

(C) In the process of reconsidering a student success fee, and before the student vote occurs, the students shall be informed, if a portion of the fee is supporting a long-term obligation, the dollar amount of that portion, and the date on which the long-term obligation would be satisfied.

(2) A new contractual or other obligation that would be supported by the rescinded student success fee shall not be entered into following a vote to rescind the fee.

(d) The Chancellor of the California State University shall ensure that all of the following occur on each campus:

(1) There is majority student representation in campus student success fee allocation oversight groups.

(2) There is an annual report from each campus to the chancellor on student success fees.

(3) There is uniform, transparent, online accountability in the decisionmaking process for, and a detailed accounting of, the allocation of student success fees.

(e) The Chancellor of the California State University shall establish appropriate reporting procedures to ensure that a campus is in compliance with the requirements of this section.

(f) The chancellor shall report, by December 1 of each year, to the Department of Finance, and the Legislature pursuant to *Section 9795 of the Government Code*, a summary of the fees adopted or rescinded in the prior academic year, and the uses of proposed and currently implemented fees.

(g) For purposes of this section, a “student success fee” is a type of category II campus-based mandatory fee that is required to be paid by a student before that student may enroll or attend a campus of the California State University, as determined by that campus or the Chancellor of the California State University.

SEC. 79.

*Section 92630 of the Education Code*is amended to read:

92630.

(a) The regents and alumni associations may distribute the names, addresses, and email addresses of alumni of the University of California to a business as described in subdivision (b) in order to accomplish any or all of the following:

(1) To provide those persons with informational materials relating to the university or college and its programs and activities.

(2) To provide those persons, the regents, and the alumni associations with commercial opportunities that provide a benefit to those persons, or to the regents or the alumni associations.

(3) To promote and support the educational mission of the university, the regents, or the alumni associations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1)

(A) The regents or the alumni associations have a written agreement with a business, as defined in subdivision (a) of *Section 1798.80 of the Civil Code*, that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses,

and email addresses of the alumni, that requires that the University of California retain the right to approve or reject any purpose for which the private information is to be used by the business and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the regents or the affected alumni association unless and until the mailing conspicuously identifies the university or the alumni association as associated with the business described in the mailing.

(B) If an affinity partner, as defined in *Section 4054.6 of the Financial Code*, sends any message to an email address obtained pursuant to this section, that message shall include at least both of the following:

(i) The identity of the sender of the message.

(ii) A cost-free means for the recipient to notify the sender not to electronically transmit any further message to the recipient.

(2) The regents or an alumni association shall not disclose to, or share a consumer's nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the consumer pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and email addresses does not include the names, addresses, and email addresses of alumni who, pursuant to subdivision (c) or in another manner, have directed the regents or an alumni association not to disclose their names, addresses, or email addresses.

(4) Information regarding either of the following is not disclosed:

(A) The current students of the University of California.

(B) An alumnus who, as a student of a campus of the University of California, indicated that, pursuant to the federal Family Educational Rights and Privacy Act (*Public Law 93-380*), he or she did not wish his or her name, address, and email address to be disclosed.

(c)

(1) The regents or the affected alumni association shall satisfy the notice requirements of subdivision (b) if it uses the form set forth in paragraph (2). The form set forth in this subdivision or a form that complies with subparagraphs (A) to (J), inclusive, shall be provided by the regents or the alumni association to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the regents and the alumni association regarding the sharing of his or her name, address, and email address:

(A) The form uses the title "IMPORTANT PRIVACY CHOICE" and the header, if applicable, as follows: "Restrict Information Sharing With Affinity Partners."

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form may be provided as a separate document, incorporated into another communication piece intended for the target audience, or provided through a link to the form located on the Internet Web site of the regents, the affected alumni association, or the affected auxiliary organization. If the form is provided through a link to an Internet Web page, it shall be accompanied by the title "IMPORTANT PRIVACY CHOICE" and a clear and concise description of the choice that can be made by accessing the form. This

requirement may be met by using text materially similar to the first paragraph of the form set forth in paragraph (2).

(D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences of an average of 15 to 20 words, or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2)

The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and email address with our affinity partners (companies that we partner with to offer products or services to our alumni). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and email address with our affinity partners. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With Affinity Partners:

Unless you say “NO,” we may share your name, address, and email address with our affinity partners. Our affinity partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

( ) NO, please do not share my name, address, and email address with your affinity partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and email address with our affinity partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

(1) Call this toll-free telephone number:(xxx-xxx-xxxx).

(2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.

(3)

Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

Xxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxx

Name:

Address:

Signature:

(3)

(A) The regents or the affected alumni association shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, addresses, and email addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B)

(i) The solicitation to students, upon their graduation, from the regents or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.

(ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.

(iii) The Internet Web site for the alumni association shall include a link to the form, which shall be located on either the homepage of the association's Internet Web site or in the association's privacy policy.

(iv) A one-time mailing to all alumni on the university or college mailing list as of January 1, 2006, shall include the form.

(v) An annual electronic communication to those alumni for whom electronic mail addresses are available, shall include the form.

(4) The regents or the affected alumni associations shall provide at least two alternative cost-free means for alumni to communicate their privacy choice, such as calling a toll-free telephone number, or using electronic means. The regents or the alumni association shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the alumnus on how to communicate his or her choices, including the toll-free telephone or facsimile number or Internet Web site address that may be used, if those means of communication are offered.

(5)

(A) An alumnus may direct at any time that his or her name, address, and email address not be disclosed. The regents or the affected alumni association shall comply with the direction of an alumnus concerning the sharing of his or her name, address, and email address within 45 days of receipt by the regents or the alumni association. When an alumnus directs that his or her name, address, or email address not be disclosed, that direction is in effect until otherwise stated by the alumnus.

(B) This subdivision does not prohibit the disclosure of the name, address, or email address of an alumnus as allowed by other applicable state laws.

(6) The regents or the affected alumni association may provide a joint notice from the regents or from one or more alumni associations, as identified in the notice, so long as the notice is accurate with respect to the regents and the alumni association or associations participating in the joint notice.

(d) This section shall not be construed to authorize the release of any social security numbers.

SEC. 80.

Section 94925 of the Education Code is amended to read:

94925.

(a) The amount in the Student Tuition Recovery Fund shall not exceed twenty-five million dollars ($ 25,000,000) at any time.

(b) If the bureau has temporarily stopped collecting the Student Tuition Recovery Fund assessments because the fund has approached the twenty-five-million dollar ($ 25,000,000) limit in subdivision (a), the bureau shall resume collecting Student Tuition Recovery Fund assessments when the fund falls below twenty million dollars ($ 20,000,000).

(c) An otherwise eligible student who enrolled during a period when institutions were not required to collect Student Tuition Recovery Fund assessments is eligible for Student Tuition Recovery Fund payments despite not having paid any Student Tuition Recovery Fund assessment.

SEC. 81.

*Section 17 of the Elections Code*is amended to read:

17. The Secretary of State shall establish and maintain administrative complaint procedures, pursuant to the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 21112), in order to remedy grievances in the administration of elections. The Secretary of State shall not require that the administrative remedies provided in the complaint procedures established pursuant to this section be exhausted in order to pursue any other remedies provided by state or federal law.

SEC. 82.

Section 1000 of the Elections Code is amended to read:

1000. The established election dates are as follows:

(a) The second Tuesday of April in each even-numbered year.

(b) The first Tuesday after the first Monday in March of each odd-numbered year.

(c) The first Tuesday after the first Monday in June in each year.

(d) The first Tuesday after the first Monday in November of each year.

SEC. 83.

*Section 1301 of the Elections Code*is amended to read:

1301.

(a) Except as required by *Section 57379 of the Government Code*, and except as provided in subdivision (b), a general municipal election shall be held on an established election date pursuant to Section 1000.

(b)

(1) Notwithstanding subdivision (a), a city council may enact an ordinance, pursuant to Division 10 (commencing with Section 10000), requiring its general municipal election to be held on the day of the statewide direct primary election, the day of the statewide general election, the day of school district elections as set forth in Section 1302, the first Tuesday after the first Monday of March in each odd-numbered year, or the second Tuesday of April in each year. An ordinance adopted pursuant to this subdivision shall become operative upon approval by the county board of supervisors.

(2) In the event of consolidation, the general municipal election shall be conducted in accordance with all applicable procedural requirements of this code pertaining to that primary, general, or school district election, and shall thereafter occur in consolidation with that election.

(c) If a city adopts an ordinance described in subdivision (b), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (b), unless the ordinance in question is later repealed by the city council.

(d) If the date of a general municipal election is changed pursuant to subdivision (b), at least one election shall be held before the ordinance, as approved by the county board of supervisors, may be subsequently repealed or amended.

SEC. 84.

*Section 2142 of the Elections Code*is amended to read:

2142.

(a) If the county elections official refuses to register a qualified elector in the county, the elector may proceed by action in the superior court to compel his or her registration. In an action under this section, as many persons may join as plaintiffs as have causes of action.

(b) If the county elections official has not registered a qualified elector who claims to have registered to vote through the Department of Motor Vehicles or any other public agency designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.), the elector may proceed by action in the superior court to compel his or her registration. In an action under this section, as many persons may join as plaintiffs as have causes of action.

(c) No fee shall be charged by the clerk of the court for services rendered in an action under this section.

SEC. 85.

Section 2150 of the Elections Code, as amended by Section 4.5 of Chapter 736 of the Statutes of 2015, is amended to read:

2150. (a) The affidavit of registration shall show:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at the affiant's option, by the designation of "Miss," "Ms.," "Mrs.," or "Mr." A person shall not be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and email address, if furnished. A person shall not be denied the right to register because of his or her failure to furnish a telephone number or email address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(6) The state or country of the affiant's birth.

(7)

(A) In the case of an affiant who has been issued a current and valid driver's license, the affiant's driver's license number.

(B) In the case of any other affiant, other than an affiant to whom subparagraph (C) applies, the last four digits of the affiant's social security number.

(C) If a voter registration affiant has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that will serve to identify the affiant for voter registration purposes. If the state has a computerized list in effect under this paragraph and the list assigns unique identifying numbers to registrants, the number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party preference.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating if the affiant has been registered at another address, under another name, or as preferring another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit of registration as to its truthfulness and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write, he or she shall sign with a mark or cross. An affiant who is an individual with a disability may complete the affidavit with reasonable accommodations as needed.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant shall not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) If a person assists the affiant in completing the affidavit of registration, that person shall sign and date the affidavit below the signature of the affiant.

(e) The affidavit of registration shall also contain a space to permit the affiant to apply for permanent vote by mail status.

(f) The Secretary of State may continue to supply existing affidavits of registration to county elections officials before printing new or revised forms that reflect the changes made to this section by Chapter 508 of the Statutes of 2007.

SEC. 86.

Section 2155 of the Elections Code is amended to read:

2155.

Upon receipt of a properly executed affidavit of registration or address correction notice or letter pursuant to Section 2119, Article 2 (commencing with Section 2220), or the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.), the county elections official shall send the voter a voter notification by nonforwardable, first-class mail, address correction requested. The

voter notification shall state the party preference for which the voter has registered in the following format:

Party: (Name of political party)

The voter notification shall be substantially in the following form:

VOTER NOTIFICATION

You are registered to vote. The party preference you chose, if any, is on this card. This card is being sent as a notification of:

1.

Your recently completed affidavit of registration.

OR,

2.

A change to your registration because of an official notice that you have moved. If your residence address has not changed or if your move is temporary, please call or write to our office immediately.

OR,

3.

Your recent registration with a change in party preference. If this change is not correct, please call or write to our office immediately.

You may vote in any election held 15 or more days after the date on this card.

Your name will appear on the index kept at the polls.

Please contact our office if the information shown on the reverse side of this card is incorrect.

(Signature of Voter)

SEC. 87.

Section 2196 of the Elections Code, as amended by Section 54 of Chapter 728 of the Statutes of 2015, is amended to read:

2196.

(a)

(1) Notwithstanding any other law, a person who is qualified to register to vote and who has a valid California driver's license or state identification card may submit an affidavit of voter registration electronically on the Internet Web site of the Secretary of State.

(2) An affidavit submitted pursuant to this section is effective upon receipt of the affidavit by the Secretary of State if the affidavit is received on or before the last day to register for an election to be held in the precinct of the person submitting the affidavit.

(3) The affiant shall affirmatively attest to the truth of the information provided in the affidavit.

(4) For voter registration purposes, the applicant shall affirmatively assent to the use of his or her signature from his or her driver's license or state identification card.

(5) For each electronic affidavit, the Secretary of State shall obtain an electronic copy of the applicant's signature from his or her driver's license or state identification card directly from the Department of Motor Vehicles.

(6) The Secretary of State shall require a person who submits an affidavit pursuant to this section to submit all of the following:

(A) The number from his or her California driver's license or state identification card.

(B) His or her date of birth.

(C) The last four digits of his or her social security number.

(D) Any other information the Secretary of State deems necessary to establish the identity of the affiant.

(7) Upon submission of an affidavit pursuant to this section, the electronic voter registration system shall provide for immediate verification of both of the following:

(A) That the applicant has a California driver's license or state identification card and that the number for that driver's license or identification card provided by the applicant matches the number for that person's driver's license or identification card that is on file with the Department of Motor Vehicles.

(B) That the date of birth provided by the applicant matches the date of birth for that person that is on file with the Department of Motor Vehicles.

(8) The Secretary of State shall employ security measures to ensure the accuracy and integrity of affidavits of voter registration submitted electronically pursuant to this section.

(b) The Department of Motor Vehicles shall use the electronic voter registration system required by this section to comply with its duties and responsibilities as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.).

(c) The Department of Motor Vehicles and the Secretary of State shall maintain a process and the infrastructure to allow the electronic copy of the applicant's signature and other information required under this section that is in the possession of the department to be transferred to the Secretary of State and to the county election management systems to allow a person who is qualified to register to vote in California to register to vote under this section.

(d) If an applicant cannot electronically submit the information required pursuant to paragraph (6) of subdivision (a), he or she shall nevertheless be able to complete the affidavit of voter registration electronically on the Secretary of State's Internet Web site, print a hard copy of the completed affidavit, and mail or deliver the hard copy of the completed affidavit to the Secretary of State or the appropriate county elections official.

SEC. 88.

*Section 2250 of the Elections Code*is amended to read:

2250. On and after July 1, 2007, in any document mailed by a state agency that offers a person the opportunity to register to vote pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.) that state agency shall include a notice informing prospective voters that if they have not received voter registration information within 30 days of requesting it, they should contact their local elections office or the office of the Secretary of State.

SEC. 89.

Section 2263 of the Elections Code is amended to read:

2263.

(a) The Department of Motor Vehicles, in consultation with the Secretary of State, shall establish a schedule and method for the department to electronically provide to the Secretary of State the records specified in this section.

(b)

(1) The department shall provide to the Secretary of State, in a manner and method to be determined by the department in consultation with the Secretary of State, the following information associated with each person who submits an application for a driver's license or identification card pursuant to *Section 12800, 12815, or 13000 of the Vehicle Code*, or who notifies the department of a change of address pursuant to *Section 14600 of the Vehicle Code*:

(A) Name.

(B) Date of birth.

(C) Either or both of the following, as contained in the department's records:

(i) Residence address.

(ii) Mailing address.

(D) Digitized signature, as described in *Section 12950.5 of the Vehicle Code*.

(E) Telephone number, if available.

(F) Email address, if available.

(G) Language preference.

(H) Political party preference.

(I) Whether the person chooses to become a permanent vote by mail voter.

(J) Whether the person affirmatively declined to become registered to vote during a transaction with the department.

(K) A notation that the applicant has attested that he or she meets all voter eligibility requirements, including United States citizenship, specified in Section 2101.

(L) Other information specified in regulations implementing this chapter.

(2)

(A) The department may provide the records described in paragraph (1) to the Secretary of State before the Secretary of State certifies that all of the conditions set forth in subdivision (e) of this section have been satisfied. Records provided pursuant to this paragraph shall only be used for purposes of outreach and education to eligible voters conducted by the Secretary of State.

(B) The Secretary shall provide materials created for purposes of outreach and education as described in this paragraph in languages other than English, as required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).

(c) The Secretary of State shall not sell, transfer, or allow any third party access to the information acquired from the Department of Motor Vehicles pursuant to this chapter without approval of the department, except as permitted by this chapter and Section 2194.

(d) The department shall not electronically provide records of a person who applies for or is issued a driver's license pursuant to *Section 12801.9 of the Vehicle Code* because he or she is unable to submit satisfactory proof that his or her presence in the United States is authorized under federal law.

(e) The Department of Motor Vehicles shall commence implementation of this section no later than one year after the Secretary of State certifies all of the following:

(1) The State has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).

(2) The Legislature has appropriated the funds necessary for the Secretary of State and the Department of Motor Vehicles to implement and maintain the California New Motor Voter Program.

(3) The regulations required by Section 2270 have been adopted.

(f) The Department of Motor Vehicles shall not electronically provide records pursuant to this section that contain a home address designated as confidential pursuant to *Section 1808.2, 1808.4, or 1808.6 of the Vehicle Code*.

SEC. 90.

Section 2265 of the Elections Code is amended to read:

2265.

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

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

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

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

(b)

(1) If a person who is registered to vote pursuant to this chapter does not provide a party preference, his or her party preference shall be designated as "Unknown" and he or she shall be treated as a "No Party Preference" voter.

(2) A person whose party preference is designated as "Unknown" pursuant to this subdivision shall not be counted for purposes of determining the total number of voters registered on the specified day preceding an election, as required by subdivision (b) of Section 5100 and subdivision (c) of Section 5151.

SEC. 91.

Section 2270 of the Elections Code is amended to read:

2270. The Secretary of State shall adopt regulations to implement this chapter, including regulations addressing both of the following:

(a) A process for canceling the registration of a person who is ineligible to vote, but became registered under the California New Motor Voter Program in the absence of any violation by that person of Section 18100.

(b) An education and outreach campaign informing voters about the California New Motor Voter Program that the Secretary of State will conduct to implement this chapter. The Secretary of State may use any public and private funds available for this and shall provide materials created for this outreach and education campaign in languages other than English, as required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).

SEC. 92.

*Section 2600 of the Elections Code*is amended to read:

2600. The Secretary of State shall establish a Language Accessibility Advisory Committee which shall meet no less than four times each calendar year. The committee shall consist of no less than 15 members and be comprised of the Secretary of State and his or her designee or designees and additional members appointed by the Secretary of State. The appointees shall have demonstrated language accessibility experience, have knowledge of presenting election materials to voters using plain language methods or another method that is easy for voters to access and understand, or be a county elections official or his or her designee. At least three county elections officials shall be appointed to the committee. The Secretary of State shall consult with and consider the recommendations of the committee. The committee shall serve in an advisory capacity to the Secretary of State.

SEC. 93.

Section 3025 of the Elections Code is amended to read:

3025.

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

(1) "Vote by mail ballot drop box" means a secure receptacle established by a county or city and county elections official whereby a voted vote by mail ballot may be returned to the elections official from whom it was obtained.

(2) "Vote by mail ballot drop-off location" means a location consisting of a secured vote by mail ballot drop box at which a voted vote by mail ballot may be returned to the elections official from whom it was obtained.

(b) On or before January 1, 2017, the Secretary of State shall promulgate regulations establishing guidelines based on best practices for security measures and procedures, including, but not limited to, chain of custody, pick-up times, proper labeling, and security of vote by mail ballot drop boxes, that a county elections official may use if the county elections official establishes one or more vote by mail ballot drop-off locations.

SEC. 94.

Section 3114 of the Elections Code is amended to read:

3114.

(a) For an election for which this state has not received a waiver pursuant to the federal Military and Overseas Voter Empowerment Act (52 U.S.C. Sec. 20301 et seq.), not sooner than 60 days but not later than 45 days before the election, the elections official shall transmit a ballot and balloting materials to each military or overseas voter who, by that date, submits a valid ballot application pursuant to Section 3102.

(b) If a valid ballot application from a military or overseas voter arrives after the 45th day before the election, the elections official charged with distributing a ballot and balloting materials to that voter shall transmit them to the voter as soon as practicable after the application arrives.

SEC. 95.

Section 6850 of the Elections Code is amended to read:

6850. This chapter applies to the presidential preference primary ballot of the Green Party only. As used in this chapter, "Green Party" means the Green Party of California.

SEC. 96.

Section 6850.5 of the Elections Code is amended to read:

6850.5.

The Green Party presidential preference primary ballot shall express the presidential preference of California voters who vote in the Green Party presidential preference primary election. National convention delegates shall be selected as provided for in the bylaws and the rules and procedures of the Green Party and pursuant to the rules of the national political party with which the Green Party is affiliated.

SEC. 97.

The heading of Article 2 (commencing with *Section 6851) of Chapter 5 of Part 1 of Division 6 of the Elections Code* is amended to read:

Article 2.

Qualification of Candidates for Presidential Preference Primary Ballot

SEC. 98.

Section 6851 of the Elections Code is amended to read:

6851. The Secretary of State shall place the name of a candidate upon the Green Party presidential preference primary ballot when the Secretary of State has determined that the candidate is generally advocated for or recognized throughout the United States or California as actively seeking the presidential nomination of the Green Party or the national political party with which the Green Party is affiliated.

SEC. 99.

Section 6853 of the Elections Code is amended to read:

6853. If a selected candidate or an unselected candidate files with the Secretary of State, no later than the 68th day before the presidential primary election, an affidavit stating without qualification that she or he is not a candidate for the office of President of the United States at the forthcoming presidential primary election, the name of that candidate shall be omitted from the list of names certified by the Secretary of State to the elections official for the ballot and the name of that candidate shall not appear on the presidential preference primary ballot.

SEC. 100.

Section 6854 of the Elections Code is amended to read:

6854. This article applies to the nomination of a Green Party candidate for the presidential preference primary ballot.

SEC. 101.

Section 6854.5 of the Elections Code is amended to read:

6854.5.

Nomination papers properly prepared, circulated, signed, and verified shall be left, for examination, with the elections official of the county in which they are circulated at least 74 days before the presidential preference primary election.

SEC. 102.

Section 6855 of the Elections Code is amended to read:

6855. Each signer of a nomination paper for the presidential preference primary ballot may sign only one paper. The signer shall add her or his printed name and place of residence indicating city and giving the street and number, if any.

SEC. 103.

Section 6857 of the Elections Code is amended to read:

6857.

The nomination paper for a candidate for the presidential preference primary ballot shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER

ON BEHALF OF PRESIDENTIAL PREFERENCE

PRIMARY CANDIDATE

Section _ _ _ _ _Page _ _ _ _ _

County of _ _ _ _ _Nomination paper of a

presidential preference candidate

for the Green Party presidential

preference primary ballot.

State of California

County of

)

ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the

County of _ _ _ _ _, State of California,

and am registered as preferring the Green

Party. I hereby nominate _ _ _ _ _ for the

presidential preference portion of the

Green Party's presidential primary ballot,

to be voted for at the presidential

preference primary to be held on

the_ _ _ _ _ day of _ _ _ _ _, 20____. I

have not signed the nomination paper of any

other candidate for the same office.

Number_____Signature_____Printed

name_____Residence

1.

2.

3.

etc.

CIRCULATOR'S DECLARATION

I, _____, affirm all of the following:

1. That I am 18 years of age or older.

2. That my residence address, including street number, is. [If no street or number exists, a designation of my residence adequate to readily ascertain its location **is.]**

3. That I secured signatures in the County of _____ to the nomination paper of a candidate in the presidential preference primary of the Green Party, that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _ _ _ _ _, 20__, and _ _ _ _ _, 20__, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California, this ____ day of ____, 20__.

[Signed] _ _ _ _ _

Circulator[Printed Name] _ _ _ _ _

SEC. 104.

Section 6859 of the Elections Code is amended to read:

6859. Within five days after any nomination papers are left with the elections official for examination, the elections official shall do both of the following:

(a) Examine and affix to the nomination papers a certificate reciting that she or he has examined them and stating the number of names that have not been marked "not sufficient."

(b) Transmit the nomination papers with the certificate of examination to the Secretary of State, who shall file the papers.

SEC. 105.

Section 6861.5 of the Elections Code is amended to read:

6861.5.

For the presidential preference primary election, the format of the Green Party ballot shall be governed by Chapter 2 (commencing with Section 13100) of Division 13, with the following exceptions:

(a) The heading "Presidential Candidate Preference" shall be included.

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) The instructions to voters shall begin with the words "Vote for a candidate." The instructions to voters shall also include the statement that "Delegates to the national convention will be selected after the presidential preference primary election."

SEC. 106.

Section 6862 of the Elections Code is amended to read:

6862. A person who believes her or his name may be used as a write-in candidate for President of the United States shall, no later than 21 days before the presidential preference primary election, file an endorsement of her or his write-in candidacy with the Secretary of State, or no votes shall be counted for that write-in candidate.

SEC. 107.

Section 6863 of the Elections Code is amended to read:

6863. The number of delegates to be selected following the presidential preference primary election shall be the number established by the national political party with which the Green Party is affiliated.

SEC. 108.

Section 7901 of the Elections Code is amended to read:

7901. At each presidential preference primary election, members of central committees, which shall be termed "county councils," shall be elected in each county.

SEC. 109.

Section 7902 of the Elections Code is amended to read:

7902. For purposes of this chapter, the registration figures used shall be those taken from the statement of voters and their political preferences transmitted by the elections officials to the Secretary of State on or before March 1 of the odd-numbered year preceding the next presidential preference primary election.

SEC. 110.

Section 7903 of the Elections Code is amended to read:

7903. The number of members of the county council to be elected in a county shall be a minimum of three and a maximum of 50, and the process in which each county's number shall be calculated shall be defined in the Green Party's bylaws and, to be effective, shall be communicated to the Secretary of State by the Green Party Liaison to the Secretary of State no later than 175 days before the next presidential preference primary election.

SEC. 111.

Section 7904 of the Elections Code is amended to read:

7904. At its first meeting following the presidential preference primary election and at subsequent meetings, a county council may appoint additional members to the county council to fill any vacancy.

SEC. 112.

Section 7911 of the Elections Code is amended to read:

7911. Members of county councils shall be elected from one or more multimember districts. Multimember districts shall conform to the county boundaries or recognized jurisdictional boundaries of Congressional, State Assembly, State Senate, or Supervisorial districts within that county, in accordance with state Green Party bylaws and county Green Party bylaws.

SEC. 113.

Section 7912 of the Elections Code is amended to read:

7912. The Secretary of State, no later than the 175th day before the presidential preference primary election, shall compute the number of members of a county council to be elected in each county and shall mail a certificate to that effect to the elections official of each county and to the Green Party Liaison to the Secretary of State.

SEC. 114.

Section 7913 of the Elections Code is amended to read:

7913. The elections official, no later than the 172nd day before the presidential preference primary election, shall compute the number of members of a county council to be elected in each district if the election of the members is to be by district pursuant to this chapter.

SEC. 115.

Section 7918 of the Elections Code is amended to read:

7918. Notwithstanding any other provision of this code, each sponsor is entitled to sponsor as many candidates as there are seats in the county council election district. Candidate names listed on a single sponsor's certificate, and the signatures on the certificate shall count toward the sponsor requirement of each and every candidate whose name is listed on the certificate. The number of candidates having their names on a sponsor's certificate shall not exceed the number of members of a county council to be elected in the district.

SEC. 116.

Section 7921 of the Elections Code is amended to read:

7921.

The office of member of county council shall be placed on the presidential preference primary ballot under the heading "Party County Council" in the place and manner designated for the office of county central committee pursuant to Chapter 2 (commencing with Section 13100) of Division 13. The subheading printed under party central committees on the presidential preference primary ballot shall be in substantially the following form:

Member of Green Party County Council, ___the _ _ _ _ _ District or Member

of the Green Party County Council, _____ County.

SEC. 117.

Section 7922 of the Elections Code is amended to read:

7922. Except as otherwise provided in this section, the votes cast for each candidate for member of county council shall be included in the canvass and statement of results in a manner similar to the vote for each candidate for county central committees pursuant to Division 15 (commencing with Section 15000), and specifically:

(a) The final total of votes cast for each candidate for member of county council, including the name, address, and ballot designation of each candidate, and a specification as to which candidates were declared elected shall be certified to the Secretary of State without delay upon completion of the official canvass. The county clerk shall simultaneously send one copy of this final certification to the Green Party Liaison to the Secretary of State.

(b) As soon as practicable after the presidential preference primary election, the Secretary of State shall prepare a certified list, by county, of all elected Green Party members of county councils, including their addresses and primary election ballot designations. The Secretary of State shall send copies of the list to the registrar of voters in each county no later than 45 days following the presidential preference primary election. This list shall be maintained for public inspection by the registrars of voters in each county until a subsequent list is received.

(c) The Secretary of State, no later than 45 days following the presidential preference primary election, shall send a notice by mail to each of the elected members of county councils that informs the person that she or he has been elected as a member of the county council. The Secretary of State shall send a copy of the certified list of all elected members of all county councils to the Green Party Liaison to the Secretary of State.

SEC. 118.

Section 7927 of the Elections Code is amended to read:

7927.

(a) The state coordinating committee shall have the authority to certify, as provided by Green Party bylaws, county council members in the following counties:

(1) Counties where no county council candidates qualified for the ballot in the preceding presidential preference primary election.

(2) Counties where all members of the county council have become disqualified from holding office.

(b) County council members certified pursuant to this section shall meet the qualifications otherwise required for county council members. County council members certified pursuant to this section shall be reported by the state coordinating committee to the applicable county elections officials. County council members certified under this section shall have all the powers and privileges otherwise afforded to county councils.

SEC. 119.

Section 12309.5 of the Elections Code is amended to read:

12309.5.

(a) No later than June 30, 2005, the Secretary of State shall adopt uniform standards for the training of precinct board members, based upon the recommendations of the task force appointed pursuant to subdivision (b). The uniform standards shall, at a minimum, address the following:

(1) The rights of voters, including, but not limited to, language access rights for linguistic minorities, the disabled, and protected classes as referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).

(2) Election challenge procedures such as challenging precinct administrator misconduct, fraud, bribery, or discriminatory voting procedures as referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).

(3) Operation of a jurisdiction's voting system, including, but not limited to, modernized voting systems, touch-screen voting, and proper tabulation procedures.

(4) Poll hours and procedures concerning the opening and closing of polling locations on election day. Procedures shall be developed that, notwithstanding long lines or delays at a polling location, ensure all eligible voters who arrive at the polling location before closing time are allowed to cast a ballot.

(5) Relevant election laws and any other subjects that will assist an inspector in carrying out his or her duties.

(6) Cultural competency, including, but not limited to, having adequate knowledge of diverse cultures, including languages, that may be encountered by a poll worker during the course of an election, and the appropriate skills to work with the electorate.

(7) Knowledge regarding issues confronting voters who have disabilities, including, but not limited to, access barriers and the need for reasonable accommodations.

(8) Procedures involved with provisional, fail-safe provisional, vote by mail, and provisional vote by mail voting.

(b) The Secretary of State shall appoint a task force of at least 12 members who have experience in the administration of elections and other relevant backgrounds to study and recommend uniform guidelines for the training of precinct board members. The task force shall consist of the chief elections officer of the two largest counties, the two smallest counties, and two county elections officers selected by the Secretary of State, or their designees. The Secretary of State shall appoint at least six other members who have elections expertise, or their designees, including members of community-based organizations that may include citizens familiar with different ethnic, cultural, and disabled populations to ensure that the task force is representative of the state's diverse electorate. The task force shall make its recommendations available for public review and comment before the submission of the recommendations to the Secretary of State and the Legislature.

(c) The task force shall file its recommendations with the Secretary of State and the Legislature no later than January 1, 2005.

SEC. 120.

Section 13307 of the Elections Code is amended to read:

13307.

(a)

(1) Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county, or district, may prepare a candidate's statement on an appropriate form provided by the elections official. The statement may include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself. However, the governing body of the local agency may authorize an increase in the limitations on words for the statement from 200 to 400 words. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations.

(2) The statement authorized by this subdivision shall be filed in the office of the elections official when the candidate's nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. The statement shall be filed in the office of the elections official no later than the 88th day before the election, if it is for an election for which nomination papers are not required to be filed. If a runoff election or general election occurs within 88 days of the primary or first election, the statement shall be filed with the elections official by the third day following the governing body's declaration of the results from the primary or first election.

(3) Except as provided in Section 13309, the statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

(b)

(1) The elections official shall send to each voter, together with the sample ballot, a voter's pamphlet that contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing.

(2) The elections official shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide that translation who is one of the following:

(A) A certified and registered interpreter on the Judicial Council Master List.

(B) An interpreter categorized as "certified" or "professionally qualified" by the Administrative Office of the United States Courts.

(C) From an institution accredited by a regional or national accrediting agency recognized by the United States Secretary of Education.

(D) A current voting member in good standing of the American Translators Association.

(E) A current member in good standing of the American Association of Language Specialists.

(c) The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the federal Voting Rights Act of 1965, as amended. The local agency may require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet. If an estimated payment is required, the receipt for the payment shall include a written notice that the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the local agency is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the local agency may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the local agency that, or the elections official who, collected the estimated cost shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

(d) This section shall not be deemed to make any statement, or the authors thereof, free or exempt from any civil or criminal action or penalty because of any false, slanderous, or libelous statements offered for printing or contained in the voter's pamphlet.

(e) Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement sent to each voter. This decision shall not be revoked or modified after the seventh day before the opening of the nominating period. A written statement of the regulations with respect to charges for handling,

packaging, and mailing shall be provided to each candidate or his or her representative at the time he or she picks up the nomination papers.

(f) For purposes of this section and Section 13310, the board of supervisors shall be deemed the governing body of judicial elections.

SEC. 121.

Section 14026 of the Elections Code is amended to read:

14026. As used in this chapter:

(a) "At-large method of election" means any of the following methods of electing members to the governing body of a political subdivision:

(1) One in which the voters of the entire jurisdiction elect the members to the governing body.

(2) One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body.

(3) One that combines at-large elections with district-based elections.

(b) "District-based elections" means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.

(c) "Political subdivision" means a geographic area of representation created for the provision of government services, including, but not limited to, a general law city, general law county, charter city, charter county, charter city and county, school district, community college district, or other district organized pursuant to state law.

(d) "Protected class" means a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).

(e) "Racially polarized voting" means voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.

SEC. 122.

Section 14405 of the Elections Code is amended to read:

14405.

(a) The members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled and canceled ballots returned, the number of ballots given to them. The accounting of ballots may either:

(1) Take place at the polling place.

(2) Be performed by the county elections official at the central counting place.

(b) The precinct board shall complete the roster as required in Section 14107, and shall also complete and sign the certificate of performance prescribed in Section 15280, if that section applies.

SEC. 123.

Section 18108 of the Elections Code is amended to read:

18108.

(a) Except as provided in subdivision (c), a person who receives money or other valuable consideration to assist another to register to vote by receiving the completed affidavit of registration from the elector, and fails to comply with Section 2159, is guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars ($ 1,000), or by imprisonment in the county jail not exceeding six months or if the failure to comply is found to be willful, not exceeding one year, or both.

(b) A person who receives money or other valuable consideration to assist another to register to vote by receiving the completed affidavit of registration from the elector, upon a third or subsequent conviction, on charges brought and separately tried, for failure to comply with Section 2159 shall be punished by a fine not exceeding ten thousand dollars ($ 10,000), or by imprisonment in the county jail not to exceed one year, or both.

(c) This section does not apply to a public agency or its employees that is designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.), if an elector asks for assistance to register to vote during the course and scope of the agency's normal business.

SEC. 124.

Section 18108.1 of the Elections Code is amended to read:

18108.1.

(a) Except as provided in subdivision (c), a person who receives money or other valuable consideration to assist another to register to vote by receiving the completed affidavit of registration from the elector, and knowingly misrepresents himself or herself as having helped register another to vote on a registration form, pursuant to Section 2159, is guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars ($ 1,000), by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

(b) A person who receives money or other valuable consideration to assist another to register to vote by receiving the completed affidavit of registration from the elector, upon a third or subsequent conviction, on charges brought and separately tried, for misrepresenting himself or herself as having helped register another to vote on a registration form, pursuant to Section 2159, shall be punished by a fine not exceeding ten thousand dollars ($ 10,000), by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment.

(c) This section does not apply to a public agency or its employees that is designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.), if an elector asks for assistance to register to vote during the course and scope of the agency's normal business.

SEC. 125.

Section 980 of the Evidence Code is amended to read:

980. Subject to Section 912 and except as otherwise provided in this article, a spouse, or the spouse's guardian or conservator if the spouse has a guardian or conservator, whether or not a party, has a privilege during the marital relationship and afterwards to refuse to disclose, and to prevent another from disclosing, a communication if the spouse claims the privilege and the communication was made in confidence between the spouse and the other spouse while they were married.

SEC. 126.

*Section 1010 of the Evidence Code*is amended to read:

1010. As used in this article, “psychotherapist” means a person who is, or is reasonably believed by the patient to be:

(a) A person authorized to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with *Section 2900) of Division 2 of the Business and Professions Code*.

(c) A person licensed as a clinical social worker under Article 4 (commencing with *Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code*, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state.

(e) A person licensed as a marriage and family therapist under Chapter 13 (commencing with *Section 4980) of Division 2 of the Business and Professions Code*.

(f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by *Section 2913 of the Business and Professions Code*, or a person registered as a marriage and family therapist intern who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in *Section 4980.44 of the Business and Professions Code*.

(g) A person registered as an associate clinical social worker who is under supervision as specified in *Section 4996.23 of the Business and Professions Code*.

(h) A person registered with the Board of Psychology as a registered psychologist who is under the supervision of a licensed psychologist or board certified psychiatrist.

(i) A psychological intern as defined in *Section 2911 of the Business and Professions Code* who is under the supervision of a licensed psychologist or board certified psychiatrist.

(j) A trainee, as defined in subdivision (c) of *Section 4980.03 of the Business and Professions Code*, who is fulfilling his or her supervised practicum required by subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 of, or subdivision (c) of *Section 4980.37 of, the Business and Professions Code* and is supervised by a licensed psychologist, a board certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

(k) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with *Section 2700) of Division 2 of the Business and Professions Code*, who possesses a master’s degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing.

(l) An advanced practice registered nurse who is certified as a clinical nurse specialist pursuant to Article 9 (commencing with *Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code* and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

(m) A person rendering mental health treatment or counseling services as authorized pursuant to *Section 6924 of the Family Code*.

(n) A person licensed as a professional clinical counselor under Chapter 16 (commencing with *Section 4999.10) of Division 2 of the Business and Professions Code*.

(o) A person registered as a clinical counselor intern who is under the supervision of a licensed professional clinical counselor, a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in *Sections 4999.42 to 4999.46, inclusive, of the Business and Professions Code*.

(p) A clinical counselor trainee, as defined in subdivision (g) of *Section 4999.12 of the Business and Professions Code*, who is fulfilling his or her supervised practicum required by paragraph (3) of subdivision (c) of Section 4999.32 of, or paragraph (3) of subdivision (c) of *Section 4999.33 of, the Business and Professions Code*, and is supervised by a licensed psychologist, a board-certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

SEC. 127.

*Section 1106 of the Evidence Code*is amended to read:

1106.

(a) In any civil action alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, opinion evidence, reputation evidence, and evidence of specific instances of the plaintiff's sexual conduct, or any of that evidence, is not admissible by the defendant in order to prove consent by the plaintiff or the absence of injury to the plaintiff, unless the injury alleged by the plaintiff is in the nature of loss of consortium.

(b) Subdivision (a) does not apply to evidence of the plaintiff's sexual conduct with the alleged perpetrator.

(c) Notwithstanding subdivision (b), in any civil action brought pursuant to *Section 1708.5 of the Civil Code* involving a minor and adult as described in Section 1708.5.5 of the Civil Code, evidence of the plaintiff minor's sexual conduct with the defendant adult shall not be admissible to prove consent by the plaintiff or the absence of injury to the plaintiff. Such evidence of the plaintiff's sexual conduct may only be introduced to attack the credibility of the plaintiff in accordance with Section 783 or to prove something other than consent by the plaintiff if, upon a hearing of the court out of the presence of the jury, the defendant proves that the probative value of that evidence outweighs the prejudice to the plaintiff consistent with Section 352.

(d) If the plaintiff introduces evidence, including testimony of a witness, or the plaintiff as a witness gives testimony, and the evidence or testimony relates to the plaintiff's sexual conduct, the defendant may cross-examine the witness who gives the testimony and offer relevant evidence limited specifically to the rebuttal of the evidence INTRODUCED BY the plaintiff or given by the plaintiff.

(e) This section shall not be construed to make inadmissible any evidence offered to attack the credibility of the plaintiff as provided in Section 783.

SEC. 128.

*Section 1157 of the Evidence Code*is amended to read:

1157.

(a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, or veterinary staffs in hospitals, or of a peer review body, as defined in *Section 805 of the Business and Professions Code*, having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for

that peer review body, or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or pharmacist review or veterinary review or acupuncturist review committees of local medical, dental, dental hygienist, podiatric, dietetic, pharmacist, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker, professional clinical counselor, or psychological review committees of state or local marriage and family therapist, state or local licensed clinical social worker, state or local licensed professional clinical counselor, or state or local psychological associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, a person in attendance at a meeting of any of the committees described in subdivision (a) shall not be required to testify as to what transpired at that meeting.

(c) The prohibition relating to discovery or testimony does not apply to the statements made by a person in attendance at a meeting of any of the committees described in subdivision (a) if that person is a party to an action or proceeding the subject matter of which was reviewed at that meeting, to a person requesting hospital staff privileges, or in an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(d) The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, veterinary, acupuncture, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if a person serves upon the committee when his or her own conduct or practice is being reviewed.

(e) The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985-86 Regular Session of the Legislature, at the 1990 portion of the 1989-90 Regular Session of the Legislature, at the 2000 portion of the 1999-2000 Regular Session of the Legislature, at the 2011 portion of the 2011-12 Regular Session of the Legislature, or at the 2015 portion of the 2015-16 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

SEC. 129.

Section 7612 of the Family Code is amended to read:

7612.

(a) Except as provided in Chapter 1 (commencing with Section 7540) and Chapter 3 (commencing with Section 7570) of Part 2, a presumption under Section 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under Section 7610 or 7611 that conflict with each other, or if a presumption under Section 7611 conflicts with a claim pursuant to Section 7610, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) In an appropriate action, a court may find that more than two persons with a claim to parentage under this division are parents if the court finds that recognizing only two parents would be detrimental to the child. In determining detriment to the child, the court shall consider all relevant factors, including, but not limited to, the harm of removing the child from a stable placement with a parent who has fulfilled the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment to the child does not require a finding of unfitness of any of the parents or persons with a claim to parentage.

(d) Unless a court orders otherwise after making the determination specified in subdivision (c), a presumption under Section 7611 is rebutted by a judgment establishing parentage of the child by another person.

(e) Within two years of the execution of a voluntary declaration of paternity, a person who is presumed to be a parent under Section 7611 may file a petition pursuant to Section 7630 to set aside a voluntary declaration of paternity. The court's ruling on the petition to set aside the voluntary declaration of paternity shall be made taking into account the validity of the voluntary declaration of paternity, the best interests of the child based upon the court's consideration of the factors set forth in subdivision (b) of Section 7575, and the best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship. In the event of a conflict between the presumption under Section 7611 and the voluntary declaration of paternity, the weightier considerations of policy and logic shall control.

(f) A voluntary declaration of paternity is invalid if, at the time the declaration was signed, any of the following conditions exist:

(1) The child already had a presumed parent under Section 7540.

(2) The child already had a presumed parent under subdivision (a), (b), or (c) of Section 7611.

(3) The man signing the declaration is a sperm donor, consistent with subdivision (b) of Section 7613.

(g) A person's offer or refusal to sign a voluntary declaration of paternity may be considered as a factor, but shall not be determinative, as to the issue of legal parentage in any proceedings regarding the establishment or termination of parental rights.

SEC. 130.

Section 7613.5 of the Family Code is amended to read:

7613.5.

(a) An intended parent may, but is not required to, use the forms set forth in this section to demonstrate his or her intent to be a legal parent of a child conceived through assisted reproduction. These forms shall satisfy the writing requirement specified in Section 7613, and are designed to provide clarity regarding the intentions, at the time of conception, of intended parents using assisted reproduction. These forms do not affect any presumptions of parentage based on Section 7611, and do not preclude a court from considering any other claims to parentage under California statute or case law.

(b) These forms apply only in very limited circumstances. Please read the forms carefully to see if you qualify for use of the forms.

(c) These forms do not apply to assisted reproduction agreements for gestational carriers or surrogacy agreements.

(d) Nothing in this section shall be interpreted to require the use of one of these forms to satisfy the writing requirement of Section 7613.

(e)

The following are the optional California Statutory Forms for Assisted Reproduction:

California Statutory Forms for Assisted Reproduction, Form 1: Two Married or Unmarried People Using Assisted Reproduction to Conceive a Child Use this form if: You and another intended parent, who may be your spouse or registered domestic partner, are conceiving a child through assisted reproduction using sperm and/or egg donation; and one of you will be giving birth. WARNING: Signing this form does not terminate the parentage claim of a sperm

donor. A sperm donor's claim to parentage is terminated if the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or if you conceive without having sexual intercourse and you have a written agreement signed by you and the donor that you will conceive using assisted reproduction and do not intend for the donor to be a parent, as required by *Section 7613(b) of the Family Code*. The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights. Even if you do not fill out this form, a spouse or domestic partner of the parent giving birth is presumed to be a legal parent of any child born during the marriage or domestic partnership. This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using sperm and/or egg donation. I, _ _ _ _ _ (print name of person not giving birth), intend to be a parent of a child that _ _ _ _ _ (print name of person giving birth) will or has conceived through assisted reproduction using sperm and/or egg donation. I consent to the use of assisted reproduction by the person who will give birth. I INTEND to be a parent of the child conceived. SIGNATURES Intended parent who will give birth: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date) Intended parent who will not give birth: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date)

NOTARY ACKNOWLEDGMENT State of California County of) On before me, (insert name and title of the officer) personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature(Seal)

California Statutory Forms for Assisted Reproduction, Form 2: Unmarried, Intended Parents Using Intended Parent's Sperm to Conceive a Child Use this form if: (1) Neither you or the other person are married or in a registered domestic partnership (including a registered domestic partnership or civil union from another state); (2) one of you will give birth to a child conceived through assisted reproduction using the intended parent's sperm; and (3) you both intend to be parents of that child. Do not use this form if you are conceiving using a surrogate. WARNING: If you do not sign this form, or a similar agreement, you may be treated as a sperm donor if you conceive without having sexual intercourse according to *Section 7613(b) of the Family Code*. The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights. This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using sperm donation. I, _ _ _ _ _ (print name of parent giving birth), plan to use assisted reproduction with another intended parent who is providing sperm to conceive the child. I am not married and am not in a registered domestic partnership (including a registered domestic partnership or civil union from another jurisdiction), and I INTEND for the person providing sperm to be a parent of the child to be conceived. I, _ _ _ _ _ (print name of parent providing sperm), plan to use assisted reproduction to conceive a child using my sperm with the parent giving birth. I am not married and am not in a registered domestic partnership (including a registered domestic partnership or civil union from another jurisdiction), and I INTEND to be a parent of the child to be conceived. SIGNATURES Intended parent giving birth: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date) Intended parent providing sperm: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date)

NOTARY ACKNOWLEDGMENT State of California County of) On before me, (insert name and title of the officer) personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY

under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature(Seal)

California Statutory Forms for Assisted Reproduction, Form 3: Intended Parents Conceiving a Child Using Eggs from One Parent and the Other Parent Will Give Birth Use this form if: You are conceiving a child using the eggs from one of you and the other person will give birth to the child; (2) and you both intend to be parents to that child. Do not use this form if you are conceiving using a surrogate. WARNING: Signing this form does not terminate the parentage claim of a sperm donor. A sperm donor's claim to parentage is terminated if the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or if you conceive without having sexual intercourse and you have a written agreement signed by you and the donor that you will conceive using assisted reproduction and do not intend for the donor to be a parent, as required by *Section 7613(b) of the Family Code*. The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights. This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using eggs from one parent and the other parent will give birth to the child. I, _ _ _ _ _ (print name of parent giving birth), plan to use assisted reproduction to conceive and give birth to a child with another person who will provide eggs to conceive the child. I INTEND for the person providing eggs to be a parent of the child to be conceived. I, _ _ _ _ _ (print name of parent providing eggs), plan to use assisted reproduction to conceive a child with another person who will give birth to the child conceived using my eggs. I INTEND to be a parent of the child to be conceived. SIGNATURES Intended parent giving birth: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date) Intended parent providing eggs: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date)

NOTARY ACKNOWLEDGMENT State of California County of) On before me, (insert name and title of the officer) personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature(Seal)

California Statutory Forms for Assisted Reproduction, Form 4: Intended Parent(s) Using a Known Sperm and/or Egg Donor(s) to Conceive a Child Use this form if: You are using a known sperm and/or egg donor(s), or embryo donation, to conceive a child and you do not intend for the donor(s) to be a parent. Do not use this form if you are conceiving using a surrogate. If you do not sign this form or a similar agreement, your sperm donor may be treated as a parent unless the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or a court finds by clear and convincing evidence that you planned to conceive through assisted reproduction and did not intend for the donor to be a parent, as required by *Section 7613(b) of the Family Code*. If you do not sign this form or a similar agreement, your egg donor may be treated as a parent unless a court finds that there is satisfactory evidence that you planned to conceive through assisted reproduction and did not intend for the donor to be a parent, as required by *Section 7613(c) of the Family Code*. The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights. This form demonstrates your intent that your sperm and/or egg or embryo donor(s) will not be a parent or parents of the child you plan to conceive through assisted reproduction. I, _ _ _ _ _ (print name of parent giving birth), plan to use assisted reproduction to conceive using a sperm and/or egg donor(s) or embryo donation, and I DO NOT INTEND for the sperm and/or egg or embryo donor(s) to be a parent of the child to be conceived. (If applicable) I, _ _ _ _ _ (print name of sperm donor), plan to donate my sperm to_ _ _ _ _ (print name of parent giving birth and second parent if applicable). I am not married to and am not in a registered domestic partnership (including a registered domestic partnership or

a civil union from another jurisdiction) with _ _ _ _ _ (print name of parent giving birth), and I DO NOT INTEND to be a parent of the child to be conceived. (If applicable) I, _ _ _ _ _ (print name of egg donor), plan to donate my ova to_ _ _ _ _ (print name of parent giving birth and second parent if applicable). I am not married to and am not in a registered domestic partnership (including a registered domestic partnership or a civil union from another jurisdiction) with _ _ _ _ _ (print name of parent giving birth), or any intimate and nonmarital relationship with _ _ _ _ _ (print name of parent giving birth) and I DO NOT INTEND to be a parent of the child to be conceived. (If applicable) I, _ _ _ _ _ (print name of intended parent not giving birth), INTEND to be a parent of the child that_ _ _ _ _ (print name of parent giving birth) will conceive through assisted reproduction using sperm and/or egg donation and I DO NOT INTEND for the sperm and/or egg or embryo donor(s) to be a parent. I consent to the use of assisted reproduction by the person who will give birth. SIGNATURES Intended parent giving birth: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date) (If applicable) Sperm Donor: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date) (If applicable) Egg Donor: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date) (If applicable) Intended parent not giving birth: _ _ _ _ _ (print name) _ _ _ _ _ (signature) _ _ _ _ _(date)

NOTARY ACKNOWLEDGMENT State of California County of) On before me, (insert name and title of the officer) personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature(Seal)

SEC. 131.

Section 8811 of the Family Code is amended to read:

8811.

(a) The department or delegated county adoption agency shall require each person who files an adoption petition to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine if the person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to *Section 1203.49 of the Penal Code*. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department or delegated county adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c)

(1) The department or a delegated county adoption agency shall not give final approval for an adoptive placement in any home in which the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of *Section 1522 of the Health and Safety Code*.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, if the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 132.

*Section 8908 of the Family Code*is amended to read:

8908.

(a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine if the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to *Section 1203.49 of the Penal Code*. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a fitness determination to the licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c)

(1) A licensed adoption agency shall not give final approval for an adoptive placement in any home in which the prospective adoptive parent, or any adult living in the prospective adoptive home, has a felony conviction for either of the following:

(A) Any felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of *Section 1522 of the Health and Safety Code*.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The licensed adoption agency may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child.

SEC. 133.

*Section 20024 of the Family Code*is repealed.

SEC. 134.

*Section 20039 of the Family Code*is repealed.

SEC. 135.

*Section 2022 of the Fish and Game Code*is amended to read:

2022.

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

(1) “Bona fide educational or scientific institution” means an institution that establishes through documentation either of the following:

(A) Educational or scientific tax exemption, from the federal Internal Revenue Service or the institution’s national, state, or local tax authority.

(B) Accreditation as an educational or scientific institution, from a qualified national, regional, state, or local authority for the institution’s location.

(2) “Ivory” means a tooth or tusk from a species of elephant, hippopotamus, mammoth, mastodon, walrus, warthog, whale, or narwhal, or a piece thereof, whether raw ivory or worked ivory, and includes a product containing, or advertised as containing, ivory.

(3) “Rhinoceros horn” means the horn, or a piece thereof, or a derivative such as powder, of a species of rhinoceros, and includes a product containing, or advertised as containing, a rhinoceros horn.

(4) “Sale” or “sell” means selling, trading, bartering for monetary or nonmonetary consideration, giving away in conjunction with a commercial transaction, or giving away at a location where a commercial transaction occurred at least once during the same or the previous calendar year.

(5) “Total value” means either the fair market value or the actual price paid for ivory or rhinoceros horn, whichever is greater.

(b) Except as provided in subdivision (c), it is unlawful to purchase, sell, offer for sale, possess with intent to sell, or import with intent to sell ivory or rhinoceros horn.

(c) The prohibitions set forth in subdivision (b) do not apply to any of the following:

(1) An employee or agent of the federal or state government undertaking a law enforcement activity pursuant to federal or state law, or a mandatory duty required by federal law.

(2) An activity that is authorized by an exemption or permit under federal law or that is otherwise expressly authorized under federal law.

(3) Ivory or rhinoceros horn that is part of a musical instrument, including, but not limited to, a string or wind instrument or piano, and that is less than 20 percent by volume of the instrument, if the owner or seller provides historical documentation demonstrating provenance and showing the item was manufactured no later than 1975.

(4) Ivory or rhinoceros horn that is part of a bona fide antique and that is less than five percent by volume of the antique, if the antique status is established by the owner or seller of the antique with historical documentation demonstrating provenance and showing the antique to be not less than 100 years old.

(5) The purchase, sale, offer for sale, possession with intent to sell, or importation with intent to sell ivory or rhinoceros horn for educational or scientific purposes by a bona fide educational or scientific institution if both of the following criteria are satisfied:

(A) The purchase, sale, offer for sale, possession with intent to sell, or import with intent to sell the ivory or rhinoceros horn is not prohibited by federal law.

(B) The ivory or rhinoceros horn was legally acquired before January 1, 1991, and was not subsequently transferred from one person to another for financial gain or profit after July 1, 2016.

(d) Possession of ivory or rhinoceros horn in a retail or wholesale outlet commonly used for the buying or selling of similar items is prima facie evidence of possession with intent to sell. This evidence does not preclude a finding of intent to sell based on any other evidence that may serve to establish that intent independently or in conjunction with this evidence.

(e) For a violation of any provision of this section, or any rule, regulation, or order adopted pursuant to this section, the following criminal penalties shall be imposed:

(1) For a first conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars ($ 250) or less, the offense shall be a misdemeanor punishable by a fine of not less than one thousand dollars ($ 1,000), or more than ten thousand dollars ($ 10,000), imprisonment in the county jail for not more than 30 days, or by both the fine and imprisonment.

(2) For a first conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars ($ 250), the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars ($ 5,000), or more than forty thousand dollars ($ 40,000), imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(3) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars ($ 250) or less, the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars ($ 5,000), or more than forty thousand dollars ($ 40,000), imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(4) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars ($ 250), the offense shall be a misdemeanor punishable by

a fine of not less than ten thousand dollars ($ 10,000), or more than fifty thousand dollars ($ 50,000) or the amount equal to two times the total value of the ivory or rhinoceros horn involved in the violation, whichever is greater, imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(f) In addition to, and separate from, any criminal penalty provided for under subdivision (e), an administrative penalty of up to ten thousand dollars ($ 10,000) may be imposed for a violation of any provision of this section, or any rule, regulation, or order adopted pursuant to this section. Penalties authorized pursuant to this subdivision may be imposed by the department consistent with all of the following:

(1) The chief of enforcement issues a complaint to any person or entity on which an administrative penalty may be imposed pursuant to this section. The complaint shall allege the act or failure to act that constitutes a violation, relevant facts, the provision of law authorizing the administrative penalty to be imposed, and the proposed penalty amount.

(2) The complaint and order is served by personal notice or certified mail and informs the party served that the party may request a hearing no later than 20 days from the date of service. If a hearing is requested, it shall be scheduled before the director or his or her designee, which designee shall not be the chief of enforcement issuing the complaint and order. A request for hearing shall contain a brief statement of the material facts the party claims support his or her contention that an administrative penalty should not be imposed or that an administrative penalty of a lesser amount is warranted. A party served with a complaint pursuant to this subdivision waives the right to a hearing if no hearing is requested within 20 days of service of the complaint, in which case the order imposing the administrative penalty shall become final.

(3) The director, or his or her designee, shall control the nature and order of the hearing proceedings. Hearings shall be informal in nature, and need not be conducted according to the technical rules relating to evidence. The director, or his or her designee, shall issue a final order within 45 days of the close of the hearing. A final copy of the order shall be served by certified mail upon the party served with the complaint.

(4) A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired or, where the party has not requested a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

(g) For any conviction or other entry of judgment imposed by a court for a violation of this section resulting in a fine, the court may pay one-half of the fine, but not to exceed five hundred dollars ($ 500), to any person giving information that led to the conviction or other entry of judgment. This reward shall not apply if the informant is a regular salaried law enforcement officer, or officer or agent of the department.

(h) Upon conviction or other entry of judgment for a violation of this section, any seized ivory or rhinoceros horn shall be forfeited and, upon forfeiture, either maintained by the department for educational or training purposes, donated by the department to a bona fide educational or scientific institution, or destroyed.

(i) Administrative penalties collected pursuant to this section shall be deposited in the Fish and Game Preservation Fund and used for law enforcement purposes upon appropriation by the Legislature.

(j) This section does not preclude enforcement under *Section 653o of the Penal Code*.

SEC. 136.

Section 6440 of the Fish and Game Code is amended to read:

6440. The Legislature finds and declares that triploid grass carp have the potential to control aquatic nuisance plants in non-public waters allowing for reduced chemical control but that the threat that grass carp pose to aquatic habitat may outweigh its benefits. It is the intent of this section to allow the department to use its management authority to provide for the long-term health of the ecosystem in the state, including the aquatic ecosystem, and, in that context, manage grass carp either through control of movement, eradication of populations, acquisition of habitat, and any other action that the department finds will maintain the biological diversity and the long term, overall health of the state's environment. The department shall undertake the management of grass carp in a manner that is consistent with provisions of this code, and, for the purposes of this section, the department shall define management as handling, controlling, destroying, or moving species. The Legislature does not intend for this section to provide a right for the use of triploid grass carp if the department finds that use of the species poses an unacceptable risk to the state's existing ecosystem.

SEC. 137.

Section 7704 of the Fish and Game Code is amended to read:

7704.

(a) It is unlawful to cause or permit deterioration or waste of a fish taken in the waters of this state, or brought into this state, or to take, receive, or agree to receive more fish than can be used without deterioration, waste, or spoilage.

(b) Except as permitted by this code, it is unlawful to use a fish, except fish offal, in a reduction plant or by a reduction process.

(c) Except as permitted by this code or by regulation of the commission, it is unlawful to sell, purchase, deliver for a commercial purpose, or possess on a commercial fishing vessel registered pursuant to Section 7881, a shark fin or tail or part of a shark fin or tail that has been removed from the carcass. However, a thresher shark fin or tail that has been removed from the carcass and whose original shape remains unaltered may be possessed on a registered commercial fishing vessel if the carcass corresponding to the fin or tail is also possessed.

SEC. 138.

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

12029.

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

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

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

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

(c) The department, in coordination with the State Water Resources Control Board, shall establish a permanent multiagency task force to address the environmental impacts of marijuana cultivation. The multiagency task force, to the extent feasible and subject to available resources, shall expand

its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on fish and wildlife and their habitats throughout the state.

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

SEC. 139.

Section 14651.5 of the Food and Agricultural Code is amended to read:

14651.5.

(a) The department shall levy an administrative penalty against a person who violates this chapter in an amount of not more than five thousand dollars ($ 5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Upon a finding that the violation is minor or unintentional, in lieu of an administrative penalty, the secretary may issue a notice of warning.

(c) A person against whom an administrative penalty is levied shall be afforded an opportunity for a hearing before the secretary, upon a request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to present evidence on his or her own behalf. If a hearing is not requested, the administrative penalty shall constitute a final and nonreviewable order.

(d) If a hearing is held, review of the decision of the secretary may be sought by the person against whom the administrative penalty is levied within 30 days of the date of the final order of the secretary pursuant to *Section 1094.5 of the Code of Civil Procedure.*

(e) After completion of the hearing procedure pursuant to subdivision (c), the secretary may file a certified copy of the department's final decision that directs payment of an administrative penalty, and, if applicable, any order denying a petition for a writ of administrative mandamus, with the clerk of the superior court of any county that has jurisdiction over the matter. Judgment shall be entered immediately by the clerk in conformity with the decision or order. Fees shall not be charged by the clerk of the superior court for performance of any official services required in connection with the entry of judgment and the satisfaction of the judgment pursuant to this section.

SEC. 140.

Section 27581.1 of the Food and Agricultural Code is amended to read:

27581.1.

(a) On or before January 1, 2017, the secretary shall adopt regulations classifying violations of this chapter, or any regulation adopted pursuant to this chapter, as "minor," subject to a penalty from fifty dollars ($ 50) to four hundred dollars ($ 400), inclusive, "moderate," subject to a penalty from four hundred one dollars ($ 401) to one thousand dollars ($ 1,000), inclusive, or "serious," subject to a penalty from one thousand one dollars ($ 1,001) to ten thousand dollars ($ 10,000), inclusive.

(b) The penalty schedule described in this section shall apply to civil penalties imposed pursuant to Section 27581.4 and administrative penalties imposed pursuant to Section 27583.

(c) The department shall post on its Internet Web site the penalty schedule described in this section when it is adopted.

SEC. 141.

Section 27583.2 of the Food and Agricultural Code is amended to read:

27583.2.

If the secretary levies an administrative penalty pursuant to Section 27583, the following shall apply:

(a) The person charged with the violation shall be notified of the proposed action in accordance with subdivision (b). The notice shall include the nature of the violation, the amount of the proposed administrative penalty, and the right to request a hearing to appeal the administrative action.

(b)

(1) Notice shall be sent by certified mail to one of the following:

(A) The address of the person charged, as provided by any license or registration issued by the department, which is not limited to a certificate of registration issued pursuant to this chapter.

(B) The address of an agent for service of process for the person charged, as filed with the Secretary of State.

(C) If an address described in subparagraph (A) or (B) is not available, the last known address of the person charged.

(2) Notice that is sent to any of the addresses described in paragraph (1) shall be considered received, even if delivery is refused or if the notice is not accepted at that address.

(3) The person charged shall have the right to appeal the proposed action by requesting a hearing within 20 days of the issuance of the notice of the proposed action.

(c) If a hearing is requested, the secretary shall schedule a hearing within 45 days of the request, with notice of the time and place of the hearing given at least 10 days before the date of the hearing. At the hearing, the person charged shall be given an opportunity to review the secretary's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the secretary may take the proposed action without a hearing.

(d) The secretary shall issue a decision within 30 days of the conclusion of the hearing, which decision shall become effective immediately.

(e) The secretary shall send a copy of the notice of the proposed action to the commissioner of the county in which the violation took place at the same time notice is sent pursuant to subdivision (b). Additionally, the secretary shall inform the commissioner of the county in which the action was initiated of violations for which a penalty has been assessed.

(f) If the proposed action is not overturned, in addition to the levy of an administrative penalty, the secretary may recover from the person charged any other reasonable costs incurred by the department in connection with administering the hearing to appeal the proposed action.

(g) Revenues collected by the secretary pursuant to this section shall be deposited into the Department of Food and Agriculture Fund for use by the department in administering this chapter, when appropriated to the department for that purpose.

SEC. 142.

Section 27583.4 of the Food and Agricultural Code is amended to read:

27583.4.

If a commissioner levies an administrative penalty pursuant to Section 27583, the following shall apply:

(a)

(1) Before an administrative penalty is levied, the person charged with the violation shall receive written notice of the proposed action in accordance with paragraph (2). The notice shall include the nature of the violation, the amount of the proposed penalty, and the right to request a hearing to appeal the administrative action.

(2)

(A) Notice shall be sent by certified mail to one of the following:

(i) The address of the person charged, as provided by any license or registration issued by the department, which is not limited to a certificate of registration issued pursuant to this chapter.

(ii) The address of an agent for service of process for the person charged, as filed with the Secretary of State.

(iii) If an address described in clause (i) or (ii) is not available, the last known address of the person charged.

(B) Notice that is sent to any of the addresses described in subparagraph (A) shall be considered received, even if delivery is refused or if the notice is not accepted at that address.

(C) The person charged shall have the right to appeal the proposed action by requesting a hearing within 20 days of the issuance of the notice of the proposed action.

(3) If a hearing is requested, the commissioner shall schedule a hearing within 45 days of the request, with notice of the time and place of the hearing given at least 10 days before the date of the hearing. At the hearing, the person charged shall be given an opportunity to review the commissioner's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the commissioner may take the proposed action without a hearing. If the person charged, or his or her legal representative, fails to appear, the commissioner shall prevail in the proceedings.

(4) The commissioner shall issue a decision within 30 days of the conclusion of the hearing, which decision shall become effective immediately.

(5) The commissioner shall send a copy of the notice of the proposed action to the secretary at the same time notice is sent to the person charged with the violation.

(b) If the person, upon whom the commissioner levied an administrative penalty, requested and appeared at a hearing, the person may appeal the commissioner's decision to the secretary within 30 days of the date of receiving a copy of the commissioner's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, state the grounds for the appeal, and include a copy of the commissioner's decision. The appellant shall file a copy of the appeal with the commissioner at the same time it is filed with the secretary.

(2) The appellant and the commissioner, at the time of filing the appeal, within 10 days thereafter, or at a later time prescribed by the secretary, may present the record of the hearing and a written argument to the secretary stating the ground for affirming, modifying, or reversing the commissioner's decision.

(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set for oral argument. The times may be altered by mutual agreement of the appellant, the commissioner, and the secretary.

(5) The secretary shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or she has received. If the secretary finds substantial evidence in the record to support the commissioner's decision, the secretary shall affirm the decision.

(6) The secretary shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the secretary may affirm the commissioner's decision, modify the commissioner's decision by reducing or increasing the amount of the penalty levied so that it is consistent with the penalty schedule described in Section 27581.1, or reverse the commissioner's decision. An administrative penalty increased by the secretary shall not be higher than that proposed in the commissioner's notice of proposed action given pursuant to subdivision (a). A copy of the secretary's decision shall be delivered or mailed to the appellant and the commissioner.

(8) Any person who does not request a hearing with the commissioner pursuant to an administrative penalty assessed under subdivision (a) shall not file an appeal to the secretary pursuant to this subdivision.

(c) If the proposed action is not overturned, in addition to the levy of an administrative penalty, the commissioner may recover from the person charged any other reasonable costs incurred by the commissioner in connection with administering the hearing to appeal the proposed action.

(d) Revenues from administrative penalties levied by the commissioner shall be deposited in the general fund of the county and, upon appropriation by the board of supervisors, shall be used by the commissioner to carry out his or her responsibilities under this chapter. The commissioner shall inform the secretary of any violations for which a penalty has been assessed.

SEC. 143.

Section 52332 of the Food and Agricultural Code is amended to read:

52332. The secretary, by regulation, may adopt all of the following:

(a) A list of the plants and crops that the secretary finds are or may be grown in this state.

(b) A list of the plants and crops that the secretary finds are detrimental to agriculture if they occur incidentally in other crops, and which, therefore, are classed as weed seed except if sold alone or as a specific constituent of a definite seed mixture.

(c) A list of noxious weed seed that the secretary finds are prohibited noxious weed seed, as defined in this chapter.

(d) A list of those noxious weed seed that are not classified as prohibited noxious weed seed and are classified by this chapter as restricted noxious weed seed.

(e) A list of substances that are likely to be used for treating grain or other crop seed that the secretary finds and determines are toxic to human beings or animals if used, and an appropriate warning or caution statement for each substance.

(f)

(1)

(A) Methods and procedures, upon the recommendation of the board, for the conciliation, mediation, or arbitration of disputes between labelers and any persons concerning conformance with label statements, advertisements, financial terms or the lack of payment by a dealer to a grower, or other disputes regarding the quality or performance of seed. The methods and procedures shall be a mandatory prerequisite to pursuing other dispute resolution mechanisms, including, but not limited to, litigation. However, if conciliation, mediation, or arbitration proceedings are commenced under this section to resolve a controversy, the statute of limitations that applies to a civil action concerning that controversy is tolled upon commencement of the conciliation, mediation, or arbitration proceedings, and until 30 days after the completion of those proceedings. As used in this subdivision, "completion of those proceedings" means the filing of a statement of agreement or nonagreement by the conciliator or mediator, or the rendering of a decision by an arbitrator or arbitration committee.

(B) If a proceeding for the conciliation, mediation, or arbitration of a dispute between a dealer and a grower is commenced under this subdivision for conformance with the financial terms by a dealer to a grower, and the decision in the proceeding is in favor of the grower, the decision may include a provision requiring compensation to the grower for the estimated value of the seed production services a grower provides to a dealer, including, but not limited to, labor, care, and expense in growing and harvesting that product.

(C) If a dealer fails to comply with the financial obligations of a judgment rendered in a conciliation, mediation, or arbitration proceeding between a dealer and a grower commenced pursuant to this subdivision following the conclusion of all appeals in the proceeding, the secretary may revoke the dealer's registration and prevent the dealer from renewing his or her registration until the time the financial obligation is fulfilled.

(2) Conciliation, mediation, or arbitration shall not affect any enforcement action by the secretary pursuant to this chapter. Regulations adopted by the secretary for the mandatory conciliation, mediation, or arbitration of disputes shall require that adequate notice be provided on the seed label notifying any buyer of the requirement to submit a dispute to mandatory conciliation, mediation, or arbitration as a prerequisite to other dispute resolution mechanisms, including litigation.

(g) Additional labeling requirements for coated, pelleted, encapsulated, mat, tape, or any other germination medium or device used on seed in order that the purchaser or consumer will be informed as to the actual amount of seed purchased.

SEC. 144.

*Section 55631 of the Food and Agricultural Code*is amended to read:

55631.

(a) Every producer of any farm product that sells any product that is grown by him or her to any processor under contract, express or implied, in addition to all other rights and remedies that are provided for by law, has a lien upon that product and upon all processed or manufactured forms of that farm product for his or her labor, care, and expense in growing and harvesting that product. The lien shall be to the extent of the agreed price, if any, for that product so sold. If there is no agreed price or a method for determining the price that is agreed upon, the extent of the lien is the value of the farm product as of the date of the delivery. Any portion of that product or the processed or manufactured forms of that product, in excess of the amount necessary to satisfy the total amount owed to producers under contract, shall be free and clear of that lien.

(b) Every producer of a flower, agricultural, or vegetable seed that sells seed that is grown by him or her, when the seed was purchased or supplied by the grower and not supplied by the dealer or an independent third party who paid for the seed, to any seed dealer under contract, express or

implied, in addition to all other rights and remedies that are provided for by law, has a lien upon that product and upon all processed or manufactured forms of that product for his or her labor, care, and expense in growing and harvesting that product. The lien shall be to the extent of the agreed price, if any, for that product so sold. If there is no agreed price or a method for determining the price that is agreed upon, the extent of the lien is the value of that product as of the date of the delivery. Any portion of that product or the processed or manufactured forms of that product, in excess of the amount necessary to satisfy the total amount owed to producers under contract, shall be free and clear of that lien.

SEC. 145.

Section 56109 of the Food and Agricultural Code is amended to read:

56109. "Farm product" includes every agricultural, horticultural, viticultural, and vegetable product of the soil, poultry and poultry products, livestock products and livestock not for immediate slaughter, bees and apiary products, hay, dried beans, honey, and cut flowers. It does not, however, include any timber or timber product, flower or agricultural or vegetable seed, any milk product that is subject to the licensing and bonding provisions of Chapter 2 (commencing with Section 61801) of Part 3 of Division 21, any aquacultural product, or cattle sold to any person who is bonded under the federal Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 181 et seq.).

SEC. 146.

Section 67132 of the Food and Agricultural Code is amended to read:

67132. Upon the finding of 11 voting members of the commission if the commission consists of three or five districts, or of 10 voting members of the commission if the commission consists of four districts, that this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operations of the commission shall be suspended, provided that the suspension shall not become effective until the expiration of the current marketing season. The secretary shall, upon receipt of the recommendation, or upon a petition filed with him or her requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding year, cause a referendum to be conducted among the listed producers to determine if the operation of this chapter and the operations of the commission shall be suspended, and shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The secretary is authorized to prescribe any additional procedure necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers, on a list established by the secretary, marketing 40 percent of the total volume marketed by all producers during the last completed marketing season, participate in the referendum, the secretary shall suspend this chapter upon the expiration of the current marketing season, if he or she finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the suspension, and the producers so voting marketed 51 percent or more of the total quantity of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) Fifty-one percent or more 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 quantity of avocados marketed in the preceding season by all of the producers who voted in the referendum.

SEC. 147.

Section 76953.5 of the Food and Agricultural Code is amended to read:

76953.5.

(a) Before the referendum vote is conducted by the secretary, the proponents of the council shall deposit with the secretary the amount that the secretary determines is necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum vote.

(b) Any funds not used in carrying out this article shall be returned to the proponents of the council who deposited the funds with the secretary.

(c) Upon establishment of the council, the council may reimburse the proponents of the council for any funds deposited with the secretary that were used in carrying out this article, and for any legal expenses and costs incurred in establishing the council.

(d) After approval by the Commercial Salmon Trollers Advisory Committee created pursuant to *Section 7862 of the Fish and Game Code*, the Department of Fish and Wildlife may expend funds collected pursuant to *Section 7861 of the Fish and Game Code*, for payment to the secretary to pay necessary costs incurred in conducting the implementation referendum vote. If the commercial salmon vessel operators who voted in the implementation referendum voted in favor of implementing this article, as provided in Section 76952, the council shall reimburse the Commercial Salmon Stamp Account in the Fish and Game Preservation Fund all amounts received from that fund.

SEC. 147.5.

Section 421 of the Government Code is amended to read:

421. The golden poppy (Eschscholzia californica) is the official State Flower. April 6 of each year is hereby designated California Poppy Day.

SEC. 148.

Section 1225 of the Government Code is amended to read:

1225.

(a) An executive officer, a judicial officer, and a Member of the Legislature may administer and certify oaths.

(b) A former judge of a court of record in this state who retired or resigned from office shall be deemed a judicial officer for purposes of this section, if he or she satisfies the conditions set forth in subdivision (c) of *Section 2093 of the Code of Civil Procedure.*

(c) A law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall not be construed to prohibit the commission from issuing a certificate as provided for in this section.

SEC. 149.

The heading of Chapter 15 (commencing with *Section 5970) of Division 6 of Title 1 of the Government Code*, as amended and renumbered by Section 182 of Chapter 303 of the Statutes of 2015, is amended and renumbered to read:

CHAPTER 14.5. Awarding of Contracts

SEC. 150.

Section 5970 of the Government Code is amended to read:

5970. As used in this chapter, the following phrases have the following meanings:

(a) “Person” means any broker, dealer, municipal securities dealer, investment advisor, or investment firm.

(b) “Regulatory agency” means the Department of Business Oversight, the securities administrators or other similar regulatory authority in any other state, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Municipal Securities Rulemaking Board, the Commodity Futures Trading Commission, or any other self-regulatory organization.

(c) “State or local government” means the state, any department, agency, board, commission, or authority of the state, or any city, city and county, county, public district, public corporation, authority, agency, board, commission, or other public entity.

SEC. 151.

Section 6254.5 of the Government Code is amended to read:

6254.5.

Notwithstanding any other law, if a state or local agency discloses a public record that is otherwise exempt from this chapter, to a member of the public, this disclosure shall constitute a waiver of the exemptions specified in Section 6254 or 6254.7, or other similar provisions of law. For purposes of this section, “agency” includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (Chapter 1 (commencing with *Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code*) or discovery proceedings.

(b) Made through other legal proceedings or as otherwise required by law.

(c) Within the scope of disclosure of a statute that limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency that retains the writings.

(e) Made to a governmental agency that agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes that are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

(g) Of records relating to a person who is subject to the jurisdiction of the Department of Business Oversight, if the disclosures are made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Business Oversight.

(h) Made by the Commissioner of Business Oversight under *Section 450, 452, 8009, or 18396 of the Financial Code*.

(i) Of records relating to a person who is subject to the jurisdiction of the Department of Managed Health Care, if the disclosures are made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the

extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.

SEC. 152.

Section 7161 of the Government Code is amended to read:

7161. "Security" has the same meaning as defined in *Section 8102 of the Commercial Code*.

SEC. 153.

Section 8594.15 of the Government Code is amended to read:

8594.15.

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

(1) "Serious bodily injury" means an injury that involves, either at the time of the actual injury or at a later time, a substantial risk of serious and permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part of the body, or a break, fracture, or burn of the second or third degree.

(2) "Yellow Alert" means a notification system, activated pursuant to subdivision (b), designed to issue and coordinate alerts with respect to a hit-and-run incident resulting in the death or injury of a person as described in *Section 20001 of the Vehicle Code*.

(b)

(1) If a hit-and-run incident is reported to a law enforcement agency, and that agency determines that the requirements of subdivision (c) are met, the agency may request the Department of the California Highway Patrol to activate a Yellow Alert. If the Department of the California Highway Patrol concurs that the requirements of subdivision (c) are met, it may activate a Yellow Alert within the geographic area requested by the investigating law enforcement agency.

(2) Radio, television, and cable and satellite systems are encouraged, but are not required, to cooperate with disseminating the information contained in a Yellow Alert.

(3) Upon activation of a Yellow Alert, the Department of the California Highway Patrol shall assist the investigating law enforcement agency by issuing the Yellow Alert via a changeable message sign.

(4) If there are multiple Yellow Alerts requested, the Department of the California Highway Patrol may prioritize the activation of alerts based on any factor, including, but not limited to, the severity of the injury, the time elapsed between a hit-and-run incident and the request, or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

(c) A law enforcement agency may request that a Yellow Alert be activated if that agency determines that all of the following conditions are met in regard to the investigation of the hit-and-run incident:

(1) A person has been killed or has suffered serious bodily injury due to a hit-and-run incident.

(2) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.

(3) The investigating law enforcement agency has additional information concerning the suspect or the suspect's vehicle, including, but not limited to, any of the following:

(A) The complete license plate number of the suspect's vehicle.

(B) A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of the suspect.

(C) The identity of the suspect.

(4) Public dissemination of available information could either help avert further harm or accelerate apprehension of the suspect based on any factor, including, but not limited to, the severity of the injury, the time elapsed between a hit-and-run incident and the request, or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 154.

Section 8670.13 of the Government Code is amended to read:

8670.13.

(a) The administrator shall periodically evaluate the feasibility of requiring new technologies to aid in prevention, response, containment, cleanup, and wildlife rehabilitation.

(b)

(1) On or before January 1, 2017, the administrator shall submit a report to the Legislature, pursuant to Section 9795, assessing the best achievable technology of equipment for oil spill prevention, preparedness, and response.

(2) The report shall evaluate studies of estimated recovery system potential as a methodology for rating equipment in comparison to effective daily recovery capacity.

(3) Pursuant to Section 10231.5, this subdivision is inoperative on July 1, 2020.

(c)

(1) Considering, among other things, the report prepared pursuant to subdivision (b), the administrator shall update regulations governing the adequacy of oil spill contingency plans for best achievable technologies for oil spill prevention and response no later than July 1, 2018.

(2) The updated regulations shall enhance the capabilities for prevention, response, containment, cleanup, and wildlife rehabilitation.

(d)

(1) The administrator shall direct the Harbor Safety Committees, established pursuant to Section 8670.23, to assess the presence and capability of tugs within their respective geographic areas of responsibility to provide emergency towing of tank vessels and nontank vessels to arrest their drift or otherwise guide emergency transit.

(2) The assessments for harbors in the San Francisco Bay area and in the Los Angeles-Long Beach area shall be initiated by May 1, 2016. The assessments for the other harbors shall be initiated by January 1, 2020.

(3) The assessment shall consider, among other things, data from available United States Coast Guard Vessel Traffic Systems, relevant incident and accident data, any relevant simulation models, and identification of any transit areas where risks are higher.

(4) The assessment shall consider the condition of tank and nontank vessels calling on harbors, including the United States Coast Guard's marine inspection program and port state control program regarding risks due to a vessel's hull or engineering material deficiencies, or inadequate crew training and professionalism.

SEC. 155.

Section 8670.13.3 of the Government Code is amended to read:

8670.13.3.

If dispersants are used in response to an oil spill in state waters, the administrator shall provide written notification of their use to the Legislature within three days of the use. The administrator shall provide the Legislature with written justification of that use, including copies of key supporting documentation used by the federal on-scene coordinator and the federal Regional Response Team as soon as those materials are released. Within two months of the use of dispersants in state waters, the administrator shall also provide a report to the Legislature on the effectiveness of the dispersants used, including, but not limited to, results of any available monitoring data to determine whether the dispersant use resulted in overall environmental benefit or harm. The written notification, justification, and report shall be submitted pursuant to Section 9795.

SEC. 156.

*Section 8670.28 of the Government Code*is amended to read:

8670.28.

(a) The administrator, taking into consideration the facility or vessel contingency plan requirements of the State Lands Commission, the Office of the State Fire Marshal, the California Coastal Commission, and other state and federal agencies, shall adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented under this article. All regulations shall be developed in consultation with the Oil Spill Technical Advisory Committee, and shall be consistent with the California oil spill contingency plan and not in conflict with the National Contingency Plan. The regulations shall provide for the best achievable protection of the waters and natural resources of the state. The regulations shall permit the development, application, and use of an oil spill contingency plan for similar vessels, pipelines, terminals, and facilities within a single company or organization, and across companies and organizations. The regulations shall, at a minimum, ensure all of the following:

(1) All areas of state waters are at all times protected by prevention, response, containment, and cleanup equipment and operations.

(2) Standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state.

(3) All appropriate personnel employed by operators required to have a contingency plan receive training in oil spill response and cleanup equipment usage and operations.

(4) Each oil spill contingency plan provides for appropriate financial or contractual arrangements for all necessary equipment and services for the response, containment, and cleanup of a reasonable worst case oil spill scenario for each area the plan addresses.

(5) Each oil spill contingency plan demonstrates that all protection measures are being taken to reduce the possibility of an oil spill occurring as a result of the operation of the facility or vessel. The protection measures shall include, but not be limited to, response to disabled vessels and identification of those measures taken to comply with requirements of Division 7.8 (commencing with *Section 8750) of the Public Resources Code*.

(6) Each oil spill contingency plan identifies the types of equipment that can be used, the location of the equipment, and the time taken to deliver the equipment.

(7) Each facility, as determined by the administrator, conducts a hazard and operability study to identify the hazards associated with the operation of the facility, including the use of the facility by vessels, due to operating error, equipment failure, and external events. For the hazards

identified in the hazard and operability studies, the facility shall conduct an offsite consequence analysis that, for the most likely hazards, assumes pessimistic water and air dispersion and other adverse environmental conditions.

(8) Each oil spill contingency plan contains a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil.

(9) Each oil spill contingency plan identifies the measures to be taken to protect the recreational and environmentally sensitive areas that would be threatened by a reasonable worst case oil spill scenario.

(10) Standards for determining a reasonable worst case oil spill. However, for a nontank vessel, the reasonable worst case is a spill of the total volume of the largest fuel tank on the nontank vessel.

(11) Each oil spill contingency plan specifies an agent for service of process. The agent shall be located in this state.

(b) The regulations and guidelines adopted pursuant to this section shall also include provisions to provide for public review and comment on submitted oil spill contingency plans.

(c) The regulations adopted pursuant to this section shall specifically address the types of equipment that will be necessary, the maximum time that will be allowed for deployment, the maximum distance to cooperating response entities, the amounts of dispersant, and the maximum time required for application should the use of dispersants be approved. Upon a determination by the administrator that booming is appropriate at the site and necessary to provide best achievable protection, the regulations shall require that vessels engaged in lightering operations be boomed prior to the commencement of operations.

(d) The administrator shall adopt regulations and guidelines for oil spill contingency plans with regard to mobile transfer units, small marine fueling facilities, and vessels carrying oil as secondary cargo that acknowledge the reduced risk of damage from oil spills from those units, facilities, and vessels while maintaining the best achievable protection for the public health and safety and the environment.

SEC. 157.

Section 8670.95 of the Government Code is amended and renumbered to read:

8670.5.5.

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

SEC. 158.

Section 14670.36 of the Government Code is amended to read:

14670.36.

(a) Notwithstanding any other law, the Director of General Services, with the consent of the Director of Developmental Services, may, in the best interests of the state, let to any person or entity real property not exceeding 20 acres located within the grounds of the Fairview Developmental Center for a period not to exceed 55 years, at a price that will permit the development of affordable housing for people with developmental disabilities.

(b) Notwithstanding any other law, the lease authorized by this section may be assignable subject to approval by the Director of General Services, with the consent of the Director of Developmental Services. The lease shall do all of the following:

(1) Provide housing for individuals who qualify based upon criteria established by the Department of Developmental Services. A minimum of 20 percent of the housing units developed shall be available and affordable to individuals with developmental disabilities served by a regional center pursuant to the Lanterman Developmental Disabilities Services Act (Chapter 1 (commencing with *Section 4500) of Division 4.5 of the Welfare and Institutions Code*). When filling vacancies, priority for housing shall be given to individuals transitioning from a developmental center or at risk for admission to a developmental center.

(2) Allow for lease revenues or other proceeds received by the state under the leases for projects authorized by this section and Section 14670.35, to be utilized by the Department of Developmental Services to support individuals with developmental disabilities, including subsidizing rents for those individuals.

(3) Include provisions authorizing the Department of Developmental Services, or its designee, to provide management oversight and administration over the housing for individuals with developmental disabilities and the general operations of the project sufficient to ensure the purposes of the lease are being carried out and to protect the financial interests of the state.

(c) The Department of Developmental Services may share in proceeds, if any, generated from the overall operation of the project developed pursuant to this section. All proceeds received from the project authorized by this section and the project authorized by Section 14670.35, in accordance with the terms of the lease, shall be deposited in the Department of Developmental Services Trust Fund, which is hereby created in the State Treasury. Moneys in the Department of Developmental Services Trust Fund shall be used, upon appropriation by the Legislature, for the purpose of providing housing and transitional services for people with developmental disabilities. Any funds not needed to support individuals with developmental disabilities shall be transferred to the General Fund upon the order of the Director of Finance.

(d) The Director of General Services, with the consent of the Director of Developmental Services, may enter into a lease pursuant to this section at less than market value, provided that the cost of administering the lease is recovered.

(e) The project and lease, including off-site improvements directly related to the housing project authorized by this section, shall not be deemed a “public works contract” as defined by *Section 1101 of the Public Contract Code*. However, construction projects contemplated by the lease authorized by this section shall be considered “public works,” as defined by paragraph (1) of subdivision (a) of *Section 1720 of the Labor Code*, for the purpose of prevailing wage requirements.

SEC. 159.

*Section 17581.9 of the Government Code*is amended to read:

17581.9.

(a)

(1) The sum of three billion ninety-eight million four hundred fifty-five thousand dollars ($ 3,098,455,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to school districts and county superintendents of schools in the manner, and for the purposes, set forth in this section.

(2) The sum of six hundred four million forty-three thousand dollars ($ 604,043,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges

for allocation to community college districts in the manner, and for the purposes, set forth in this section.

(3) For purposes of this section, a school district includes a county office of education and a charter school.

(b)

(1)

(A) The Superintendent of Public Instruction shall allocate forty million dollars ($ 40,000,000) of the funds appropriated pursuant to paragraph (1) of subdivision (a) to county superintendents of schools, as follows:

(i) Each county superintendent of schools shall be allocated the greater of:

(I) thirty thousand dollars ($ 30,000), multiplied by the number of school districts for which the county superintendent of schools has jurisdiction pursuant to *Section 1253 of the Education Code*; or (II) eighty thousand dollars ($ 80,000).

(ii) After the allocations pursuant to clause (i), the balance shall be allocated in an equal amount per unit of regular average daily attendance, as those average daily attendance numbers are reported at the time of the second principal apportionment for the 2014-15 fiscal year.

(B) For purposes of allocating funding pursuant to this paragraph only, “regular average daily attendance” means the aggregate number of units of average daily attendance within the county attributable to all school districts for which the county superintendent of schools has jurisdiction pursuant to *Section 1253 of the Education Code*, charter schools within the county, and the schools operated by the county superintendent of schools.

(2) It is the intent of the Legislature that county offices of education will prioritize the use of funds allocated pursuant to paragraph (1) for investments necessary to support new responsibilities required under the evolving accountability structure of the local control funding formula and develop greater capacity and consistency within and between county offices of education. A county office of education may encumber funds apportioned pursuant to this section at any time during the 2015-16 or 2016-17 fiscal year.

(3) The Superintendent shall allocate three billion fifty-eight million four hundred fifty-five thousand dollars ($ 3,058,455,000) of the funds appropriated pursuant to paragraph (1) of subdivision (a) to school districts on the basis of an equal amount per unit of regular average daily attendance, as those average daily attendance numbers are reported at the time of the second principal apportionment for the 2014-15 fiscal year.

(c) The Chancellor of the California Community Colleges shall allocate the funds appropriated pursuant to paragraph (2) of subdivision (a) to community college districts on the basis of an equal amount per enrolled full-time equivalent student, as those numbers of students are reported at the time of the second principal apportionment for the 2014-15 fiscal year.

(d) Allocations made pursuant to this section shall first satisfy any outstanding claims pursuant to *Section 6 of Article XIIIB of the California Constitution* for reimbursement of state-mandated local program costs for any fiscal year. Notwithstanding Section 12419.5 and any amounts that are paid in satisfaction of outstanding claims for reimbursement of state-mandated local program costs, the Controller may audit any claim as allowed by law, and may recover any amount owed by school districts or community college districts pursuant to an audit only by reducing amounts owed by the state to school districts or community college districts for any other mandate claims. Under no circumstances shall a school district or community college district be required to remit funding back to the state to pay for disallowed costs identified by a Controller audit of claimed reimbursable state-mandated local program costs. The Controller shall not recover any amount owed by a school district or community college district pursuant to an audit of claimed reimbursable state-

mandated local program costs by reducing any amount owed a school district or community college district for any purpose other than amounts owed for any other mandate claims. The Controller shall apply amounts received by each school district or community college district against any balances of unpaid claims for reimbursement of state-mandated local program costs and interest in chronological order beginning with the earliest claim. The Controller shall report to each school district and community college district the amounts of any claims and interest that are offset from funds provided pursuant to this section, and shall report a summary of the amounts offset for each mandate for each fiscal year to the Department of Finance and the fiscal committees of the Legislature.

(e)

(1) The governing board of a school district or community college district may expend the one-time funds received pursuant to this section for any purpose, as determined by the governing board.

(2) It is the intent of the Legislature that school districts shall prioritize the use of these one-time funds for professional development, induction for beginning teachers with a focus on relevant mentoring, instructional materials, technology infrastructure, and any other investments necessary to support implementation of the common core standards in English language arts and mathematics, the implementation of English language development standards, and the implementation of the Next Generation Science standards.

(f) For purposes of making the computations required by *Section 8 of Article XVI of the California Constitution*, three hundred nineteen million two hundred thirty-one thousand dollars ($ 319,231,000) of the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of *Section 41202 of the Education Code*, for the 2013-14 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of *Section 41202 of the Education Code*, for the 2013-14 fiscal year.

(g) For purposes of making the computations required by *Section 8 of Article XVI of the California Constitution*, ninety-three million five hundred twenty-nine thousand dollars ($ 93,529,000) of the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of *Section 41202 of the Education Code*, for the 2013-14 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of *Section 41202 of the Education Code*, for the 2013-14 fiscal year.

(h) For purposes of making the computations required by *Section 8 of Article XVI of the California Constitution*, two billion seven hundred forty-eight million three hundred forty-nine thousand dollars ($ 2,748,349,000) of the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of *Section 41202 of the Education Code*, for the 2014-15 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of *Section 41202 of the Education Code*, for the 2014-15 fiscal year.

(i) For purposes of making the computations required by *Section 8 of Article XVI of the California Constitution*, three hundred ninety-three million two hundred twenty thousand dollars ($ 393,220,000) of the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of *Section 41202 of the Education Code*, for the 2014-15 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of *Section 41202 of the Education Code*, for the 2014-15 fiscal year.

(j) For purposes of making the computations required by *Section 8 of Article XVI of the California Constitution*, one hundred seventeen million two hundred ninety-four thousand dollars ($ 117,294,000) of the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of *Section 41202 of the Education Code*, for the 2015-16 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of *Section 41202 of the Education Code*, for the 2015-16 fiscal year.

(k) For purposes of making the computations required by *Section 8 of Article XVI of the California Constitution*, thirty million eight hundred seventy-five thousand dollars ($ 30,875,000) of the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of *Section 41202 of the Education Code*, for the 2015-16 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of *Section 41202 of the Education Code*, for the 2015-16 fiscal year.

SEC. 160.

Section 19130 of the Government Code is amended to read:

19130. The purpose of this article is to establish standards for the use of personal services contracts.

(a) Personal services contracting is permissible to achieve cost savings when all the following conditions are met:

(1) The contracting agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the state, provided that:

(A) In comparing costs, there shall be included the state's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the state's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed in state service. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing state costs that would be directly associated with the contracted function. These continuing state costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut state pay rates.

(3) The contract does not cause the displacement of civil service employees. The term "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. Displacement does not include changes in shifts or days off, nor does it include reassignment to other positions within the same class and general location.

(4) The contract does not adversely affect the state's affirmative action efforts.

(5) The savings shall be large enough to ensure that they will not be eliminated by private sector and state cost fluctuations that could normally be expected during the contracting period.

(6) The amount of savings clearly justify the size and duration of the contracting agreement.

(7) The contract is awarded through a publicized, competitive bidding process.

(8) The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination, affirmative action standards.

(9) The potential for future economic risk to the state from potential contractor rate increases is minimal.

(10) The contract is with a firm. A "firm" means a corporation, partnership, nonprofit organization, or sole proprietorship.

(11) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by state government.

(b) Personal services contracting also shall be permissible when any of the following conditions are met:

(1) The functions contracted are exempted from civil service by *Section 4 of Article VII of the California Constitution*, which describes exempt appointments.

(2) The contract is for a new state function and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(3) The services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.

(4) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

(5) The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular civil service system. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

(6) The nature of the work is such that the standards of this code for emergency appointments apply. These contracts shall conform with Article 8 (commencing with Section 19888) of Chapter 2.5 of Part 2.6.

(7) State agencies need private counsel because a conflict of interest on the part of the Attorney General's office prevents it from representing the agency without compromising its position. These contracts shall require the written consent of the Attorney General, pursuant to Section 11040.

(8) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the state in the location where the services are to be performed.

(9) The contractor will conduct training courses for which appropriately qualified civil service instructors are not available, provided that permanent instructor positions in academies or similar settings shall be filled through civil service appointment.

(10) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose.

(c) All persons who provide services to the state under conditions the board determines constitute an employment relationship shall, unless exempted from civil service by *Section 4 of Article VII of the California Constitution*, be retained under an appropriate civil service appointment.

SEC. 161.

Section 19241 of the Government Code, as added by Section 5 of Chapter 356 of the Statutes of 2015, is amended to read:

19241.

(a) The department, consistent with board rules, shall be responsible for the implementation of this chapter, which may provide for the establishment of eligibility criteria for participation, special job classifications, examination techniques, and appointment and appeals procedures.

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

SEC. 162.

Section 22865 of the Government Code is amended to read:

22865. Not later than 30 days prior to the approval of benefits and premium readjustments authorized under Section 22864, the board shall provide an initial estimate of proposed changes and costs in writing to the Joint Legislative Budget Committee, the chairpersons of the committees and subcommittees in each house of the Legislature that consider the Public Employees' Retirement System's budget and activities, the Controller, the Trustees of the California State University, the Department of Human Resources, the Director of Finance, and the Legislative Analyst.

SEC. 163.

Section 34886 of the Government Code is amended to read:

34886.

(a) Notwithstanding Section 34871 or any other law, the legislative body of a city with a population of fewer than 100,000 people may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as described in subdivisions (a) and (c) of Section 34871, without submitting the ordinance to the voters for approval. An ordinance adopted pursuant to this subdivision shall include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with *Section 14025) of Division 14 of the Elections Code*).

(b) For purposes of this section, the population of a city shall be determined by the most recent federal decennial census.

SEC. 164.

Section 53515 of the Government Code is amended to read:

53515.

(a) General obligation bonds issued and sold by or on behalf of a local agency shall be secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax. The lien shall automatically arise without the need for any action or authorization by the local agency or its governing body. The lien shall be valid and binding from the time the bonds are executed and delivered. The revenues received pursuant to the levy and collection of the tax shall be

immediately subject to the lien, and the lien shall immediately attach to the revenues and be effective, binding, and enforceable against the local agency, its successors, transferees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(b) This section is not intended to supplement or limit a local agency's power to issue general obligation bonds conferred by any other law.

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

(1) "General obligation bonds" means bonds, warrants, notes, or other evidence of indebtedness of a local agency payable, both principal and interest, from the proceeds of ad valorem taxes that may be levied pursuant to paragraphs (2) and (3) of subdivision (b) of *Section 1 of Article XIII A of the California Constitution.*

(2) "Local agency" means any city, county, city and county, school district, community college district, authority, or special district.

SEC. 165.

Section 56332 of the Government Code is amended to read:

56332.

(a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to participate in a meeting or election of the independent special district selection committee, the legislative body of the district may appoint one of its members as an alternate to participate in the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer or his or her alternate as designated by the governing body. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under one of the following circumstances:

(1) Whenever the executive officer anticipates that a vacancy will occur within the next 90 days among the members or alternate member representing independent special districts on the commission.

(2) Whenever a vacancy exists among the members or alternate member representing independent special districts upon the commission.

(3) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed members of the legislative body of an independent special district residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. Service on the commission by a regular district member shall not disqualify, or be cause for disqualification of, the member from acting on proposals affecting the special district on whose legislative body the member serves. The special district selection committee may, at the time it

appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district on whose legislative body the member serves.

(d) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

(e) A majority of the independent special district selection committee may determine to conduct the committee's business by mail, including holding all elections by mailed ballot, pursuant to subdivision (f).

(f) If the independent special district selection committee has determined to conduct the committee's business by mail or if the executive officer determines that a meeting of the special district selection committee, for the purpose of appointing the special district members or filling vacancies, is not feasible, the executive officer shall conduct the business of the committee by mail. Elections by mail shall be conducted as provided in this subdivision.

(1) The executive officer shall prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.

(2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. If two or more candidates are nominated, the executive officer shall prepare and deliver one ballot and voting instructions to each eligible district. The ballot shall include the names of all nominees and the office for which each was nominated. Each presiding officer, or his or her alternate as designated by the governing body, shall return the ballot to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballot to the eligible district.

(3) The call for nominations, ballots, and voting instructions shall be delivered by certified mail to each eligible district. As an alternative to the delivery by certified mail, the executive officer, with prior concurrence of the presiding officer or his or her alternate as designated by the governing body, may transmit materials by electronic mail.

(4) If the executive officer has transmitted the call for nominations or ballots by electronic mail, the presiding officer, or his or her alternate as designated by the governing body, may respond to the executive officer by electronic mail.

(5) Each returned nomination and ballot shall be signed by the presiding officer or his or her alternate as designated by the governing body of the eligible district.

(6) For an election to be valid, at least a quorum of the special districts must submit valid ballots. The candidate receiving the most votes shall be elected, unless another procedure has been adopted by the selection committee. Any nomination and ballot received by the executive officer after the date specified is invalid, provided, however, that if a quorum of ballots is not received by that date, the executive officer shall extend the date to submit ballots by 60 days and notify all districts of the extension. The executive officer shall announce the results of the election within seven days of the date specified.

(7) All election materials shall be retained by the executive officer for a period of at least six months after the announcement of the election results.

(g) For purposes of this section, "executive officer" means the executive officer or designee as authorized by the commission.

SEC. 166.

Section 82015 of the Government Code is amended to read:

82015.

(a) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b)

(1) A payment made at the behest of a committee, as defined in subdivision (a) of Section 82013, is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under *Section 501(c)(3) of the Internal Revenue Code*. A payment by a state, local, or federal governmental agency that is made principally for legislative or governmental purposes is governed exclusively by this clause and, therefore, is not subject to the reporting requirement described in clause (iii).

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars ($ 5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar ($ 5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate's candidacy for elective office if all or a portion of the payment is used for election-related

activities. For purposes of this subparagraph, “election-related activities” shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the candidate’s candidacy for elective office, the candidate’s election campaign, or the candidate’s or his or her opponent’s qualifications for elective office.

(iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clause (i), (ii), or (iii).

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

(3) A payment made at the behest of a member of the Public Utilities Commission, made principally for legislative, governmental, or charitable purposes, is not a contribution. However, payments of this type shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars ($ 5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the member with the Public Utilities Commission and shall be a public record subject to inspection and copying pursuant to Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar ($ 5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, the Public Utilities Commission shall forward a copy of these reports to the Fair Political Practices Commission.

(c) “Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of his or her candidacy, other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to *Section 13307 of the Elections Code*; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) “Contribution” further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) "Contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f)

(1) Except as provided in paragraph (2) or (3), "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars ($ 500) or less.

(2) "Contribution" includes a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph shall be attributable to the lobbyist for purposes of Section 85702.

(3) "Contribution" includes a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.

(g) Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(h) "Contribution" further includes the payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(1) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(2) The communication is made at the behest of the affected candidate or committee.

(i) "Contribution" further includes a payment made by a person to a multipurpose organization as defined and described in Section 84222.

SEC. 167.

Section 83123.6 of the Government Code is amended to read:

83123.6.

(a) Upon mutual agreement between the Commission and the City Council of the City of Stockton, the Commission is authorized to assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance passed by the City Council of the City of Stockton. The Commission is authorized to be the civil prosecutor responsible for the civil enforcement of that local campaign finance reform ordinance in accordance with this title. As the civil prosecutor of the City of Stockton's local campaign finance reform ordinance, the Commission may do both of the following:

(1) Investigate possible violations of the local campaign finance reform ordinance.

(2) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(b) Any local campaign finance reform ordinance of the City of Stockton enforced by the Commission pursuant to this section shall comply with this title.

(c) The City Council of the City of Stockton shall consult with the Commission before adopting and amending any local campaign finance reform ordinance that is subsequently enforced by the Commission pursuant to this section.

(d)

(1) The City Council of the City of Stockton and the Commission may enter into any agreements necessary and appropriate to carry out the provisions of this section, including agreements pertaining to any necessary reimbursement of state costs with city funds for costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance reform ordinance pursuant to this section.

(2) An agreement entered into pursuant to this subdivision shall not contain any form of a cancellation fee, a liquidated damages provision, or other financial disincentive to the exercise of the right to terminate the agreement pursuant to subdivision (e), except that the Commission may require the City Council of the City of Stockton to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement if the City Council of the City of Stockton terminates the agreement.

(e) The City Council of the City of Stockton or the Commission may, at any time, by ordinance or resolution, terminate any agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance reform ordinance or any provision of the ordinance.

(f) If an agreement is entered into pursuant to this section, the Commission shall report to the Legislature regarding the performance of that agreement on or before January 1, 2019, and shall submit that report in compliance with Section 9795. The Commission shall develop the report in consultation with the City Council of the City of Stockton. The report shall include, but not be limited to, all of the following:

(1) The status of the agreement.

(2) The estimated annual cost savings, if any, for the City of Stockton.

(3) A summary of relevant annual performance metrics, including measures of use, enforcement, and customer satisfaction.

(4) Public comments submitted to the Commission or the City of Stockton relative to the operation of the agreement.

(5) Legislative recommendations.

(g) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 168.

Section 87207 of the Government Code is amended to read:

87207.

(a) If income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and address of each source of income aggregating five hundred dollars ($ 500) or more in value, or fifty dollars ($ 50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars ($ 500) but did

not exceed one thousand dollars ($ 1,000), whether it was in excess of one thousand dollars ($ 1,000) but was not greater than ten thousand dollars ($ 10,000), whether it was greater than ten thousand dollars ($ 10,000) but not greater than one hundred thousand dollars ($ 100,000), or whether it was greater than one hundred thousand dollars ($ 100,000).

(3) A description of the consideration, if any, for which the income was received.

(4) In the case of a gift, the amount and the date on which the gift was received, and the travel destination for purposes of a gift that is a travel payment, advance, or reimbursement.

(5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

(b) If the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than ten thousand dollars ($ 10,000) during a calendar year.

(c) If a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interests. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

SEC. 169.

Section 89506 of the Government Code is amended to read:

89506.

(a) Payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following applies:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elective state office or local elective office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

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

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient's statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the governmental agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in *Sections 162* and *274 of the Internal Revenue Code*, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by *Section 170.9 of the Code of Civil Procedure.*

(f)

(1) A nonprofit organization that regularly organizes and hosts travel for elected officials and that makes payments, advances, or reimbursements that total more than ten thousand dollars ($ 10,000) in a calendar year, or that total more than five thousand dollars ($ 5,000) in a calendar year for a single person, for travel by an elected state officer or local elected officeholder as described in subdivision (a) shall disclose to the Commission the names of donors who did both of the following in the preceding year:

(A) Donated one thousand dollars ($ 1,000) or more to the nonprofit organization.

(B) Accompanied an elected state officer or local elected officeholder, either personally or through an agent, employee, or representative, for any portion of travel described in subdivision (a).

(2) For purposes of this subdivision, a nonprofit organization “regularly organizes and hosts travel for elected officials” if the sum of the nonprofit organization’s expenses that relate to any of the following types of activities with regard to elected officials was greater than one-third of its total expenses reflected on the nonprofit organization’s Internal Revenue Service Form 990, or the equivalent, filed most recently within the last 12 months:

(A) Travel.

(B) Study tours.

(C) Conferences, conventions, and meetings.

(3) This subdivision does not preclude a finding that a nonprofit organization is acting as an intermediary or agent of the donor. If the nonprofit organization is acting as an intermediary or agent of the donor, all of the following apply:

(A) The donor to the nonprofit organization is the source of the gift.

(B) The donor shall be identified as a financial interest under Section 87103.

(C) The gift shall be reported as required by Section 87207.

(D) The gift shall be subject to the limitations on gifts specified in Section 89503.

(4) For purposes of this subdivision, a nonprofit organization includes an organization that is exempt from taxation under *Section 501(c)(3)* or *Section 501(c)(4) of the Internal Revenue Code*.

SEC. 170.

Section 1204.2 of the Health and Safety Code, as added by Section 1 of Chapter 704 of the Statutes of 2015, is amended to read:

1204.2.

(a) Notwithstanding any other law, including, but not limited to, Section 75047 of Article 6 of Chapter 7 of Division 5 of Title 22 of the California Code of Regulations, and except as provided in subdivision (c), a primary care clinic described in subdivision (a) of Section 1204 that is licensed pursuant to this chapter shall not be required to enter into a written transfer agreement with a nearby hospital as a condition of licensure.

(b)

(1) A primary care clinic shall send with each patient at the time of transfer, or in the case of an emergency, as promptly as possible, copies of all medical records related to the patient's transfer. To the extent practicable and applicable to the patient's transfer, the medical records shall include current medical findings, diagnoses, laboratory results, medications provided prior to transfer, a brief summary of the course of treatment provided prior to transfer, ambulation status, nursing and dietary information, name and contact information for the treating physician at the clinic, and, as appropriate, pertinent administrative and demographic information related to the patient, including name and date of birth.

(2) The requirements in paragraph (1) do not apply if the primary care clinic has entered into a written transfer agreement with a local hospital that provides for the transfer of medical records.

(c) A primary care clinic licensed pursuant to subdivision (a) of Section 1204 that provides services as an alternative birth center shall, as a condition of licensure, be required to maintain a written transfer agreement with a local hospital. The transfer agreement shall include provisions for communication and transportation to meet medical emergencies. Essential personal, health, and medical information shall either accompany the patient upon transfer or be transmitted immediately by telephone to the receiving facility. This section does not modify or supersede the requirements imposed on alternative birth centers described in Section 1204.3.

(d) The State Department of Public Health, no later than July 1, 2016, shall repeal Section 75047 of Article 6 of Chapter 7 of Division 5 of Title 22 of the California Code of Regulations.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 171.

Section 1204.2 of the Health and Safety Code, as added by Section 2 of Chapter 704 of the Statutes of 2015, is amended to read:

1204.2.

(a) Notwithstanding any other law, and except as provided in subdivision (c), a primary care clinic described in subdivision (a) of Section 1204 that is licensed pursuant to this chapter shall not be required to enter into a written transfer agreement with a nearby hospital as a condition of licensure.

(b)

(1) A primary care clinic shall send with each patient at the time of transfer, or in the case of an emergency, as promptly as possible, copies of all medical records related to the patient's transfer. To the extent practicable and applicable to the patient's transfer, the medical records shall include current medical findings, diagnoses, laboratory results, medications provided prior to transfer, a brief summary of the course of treatment provided prior to transfer, ambulation status, nursing and dietary information, name and contact information for the treating physician at the clinic, and, as appropriate, pertinent administrative and demographic information related to the patient, including name and date of birth.

(2) The requirements in paragraph (1) do not apply if the primary care clinic has entered into a written transfer agreement with a local hospital that provides for the transfer of medical records.

(c) A primary care clinic licensed pursuant to subdivision (a) of Section 1204 that provides services as an alternative birth center shall, as a condition of licensure, be required to maintain a written transfer agreement with a local hospital. The transfer agreement shall include provisions for communication and transportation to meet medical emergencies. Essential personal, health, and medical information shall either accompany the patient upon transfer or be transmitted immediately by telephone to the receiving facility. This section does not modify or supersede the requirements imposed on alternative birth centers described in Section 1204.3.

(d) This section shall become operative on January 1, 2018.

SEC. 172.

Section 1262.5 of the Health and Safety Code is amended to read:

1262.5.

(a) Each hospital shall have a written discharge planning policy and process.

(b) The policy required by subdivision (a) shall require that appropriate arrangements for posthospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility, or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning. If the hospital determines that the patient and family members or interested persons need to be counseled to prepare them for posthospital care, the hospital shall provide for that counseling.

(c) As part of the discharge planning process, the hospital shall provide each patient who has been admitted to the hospital as an inpatient with an opportunity to identify one family caregiver who may assist in posthospital care, and shall record this information in the patient's medical chart.

(1) In the event that the patient is unconscious or otherwise incapacitated upon admittance to the hospital, the hospital shall provide the patient or patient's legal guardian with an opportunity to designate a caregiver within a specified time period, at the discretion of the attending physician, following the patient's recovery of consciousness or capacity. The hospital shall promptly document the attempt in the patient's medical record.

(2) In the event that the patient or legal guardian declines to designate a caregiver pursuant to this section, the hospital shall promptly document this declination in the patient's medical record, when appropriate.

(d) The policy required by subdivision (a) shall require that the patient's designated family caregiver be notified of the patient's discharge or transfer to another facility as soon as possible and, in any event, upon issuance of a discharge order by the patient's attending physician. If the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the patient. The hospital shall promptly document the attempted notification in the patient's medical record.

(e) The process required by subdivision (a) shall require that the patient and family caregiver be informed of the continuing health care requirements following discharge from the hospital. The right to information regarding continuing health care requirements following discharge shall also apply to the person who has legal responsibility to make decisions regarding medical care on behalf of the patient, if the patient is unable to make those decisions for himself or herself. The hospital shall provide an opportunity for the patient and his or her designated family caregiver to engage in the discharge planning process, which shall include providing information and, when appropriate, instruction regarding the posthospital care needs of the patient. This information shall include, but

is not limited to, education and counseling about the patient's medications, including dosing and proper use of medication delivery devices, when applicable. The information shall be provided in a culturally competent manner and in a language that is comprehensible to the patient and caregiver, consistent with the requirements of state and federal law, and shall include an opportunity for the caregiver to ask questions about the posthospital care needs of the patient.

(f)

(1) A transfer summary shall accompany the patient upon transfer to a skilled nursing or intermediate care facility or to the distinct part-skilled nursing or intermediate care service unit of the hospital. The transfer summary shall include essential information relative to the patient's diagnosis, hospital course, pain treatment and management, medications, treatments, dietary requirement, rehabilitation potential, known allergies, and treatment plan, and shall be signed by the physician.

(2) A copy of the transfer summary shall be given to the patient and the patient's legal representative, if any, prior to transfer to a skilled nursing or intermediate care facility.

(g) A hospital shall establish and implement a written policy to ensure that each patient receives, at the time of discharge, information regarding each medication dispensed, pursuant to *Section 4074 of the Business and Professions Code*.

(h) A hospital shall provide every patient anticipated to be in need of long-term care at the time of discharge with contact information for at least one public or nonprofit agency or organization dedicated to providing information or referral services relating to community-based long-term care options in the patient's county of residence and appropriate to the needs and characteristics of the patient. At a minimum, this information shall include contact information for the area agency on aging serving the patient's county of residence, local independent living centers, or other information appropriate to the needs and characteristics of the patient.

(i) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, shall not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.

(j) Discharge planning policies adopted by a hospital in accordance with this section shall ensure that planning is appropriate to the condition of the patient being discharged from the hospital and to the discharge destination and meets the needs and acuity of patients.

(k) This section does not require a hospital to do either of the following:

(1) Adopt a policy that would delay discharge or transfer of a patient.

(2) Disclose information if the patient has not provided consent that meets the standards required by state and federal laws governing the privacy and security of protected health information.

(l) This section does not supersede or modify any privacy and information security requirements and protections in federal and state law regarding protected health information or personally identifiable information, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(m) For the purposes of this section, "family caregiver" means a relative, friend, or neighbor who provides assistance related to an underlying physical or mental disability but who is unpaid for those services.

SEC. 173.

*Section 1266 of the Health and Safety Code*is amended to read:

1266.

(a) The Licensing and Certification Division shall be supported entirely by federal funds and special funds by no earlier than the beginning of the 2009-10 fiscal year unless otherwise specified in statute, or unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation. For the 2007-08 fiscal year, General Fund support shall be provided to offset licensing and certification fees in an amount of not less than two million seven hundred eighty-two thousand dollars ($ 2,782,000).

(b)

(1)

The Licensing and Certification Program fees for the 2006-07 fiscal year shall be as follows:

Type of FacilityFee

General Acute Care$ 134.10per bed

Hospitals

Acute Psychiatric Hospitals$ 134.10per bed

Special Hospitals$ 134.10per bed

Chemical Dependency$ 123.52per bed

Recovery Hospitals

Skilled Nursing Facilities$ 202.96per bed

Intermediate Care$ 202.96per bed

Facilities

Intermediate Care$ 592.29per bed

Facilities- Developmentally

Disabled

Intermediate Care$ 1,000.00per facility

Facilities- Developmentally

Disabled-Habilitative

Intermediate Care$ 1,000.00per facility

Facilities- Developmentally

Disabled-Nursing

Home Health Agencies$ 2,700.00per facility

Referral Agencies$ 5,537.71per facility

Adult Day Health Centers$ 4,650.02per facility

Congregate Living Health$ 202.96per bed

Facilities

Psychology Clinics$ 600.00per facility

Primary Clinics- Community$ 600.00per facility

and Free

Specialty Clinics- Rehab

Clinics:

(For profit)$ 2,974.43per facility

(Nonprofit)$ 500.00per facility

Specialty Clinics- Surgical$ 1,500.00per facility

and Chronic

Dialysis Clinics$ 1,500.00per facility

Pediatric Day$ 142.43per bed

Health/Respite Care

Alternative Birthing$ 2,437.86per facility

Centers

Hospice$ 1,000.00per provider

Correctional Treatment$ 590.39per bed

Centers

(2)

(A) In the first year of licensure for intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN) facilities, the licensure fee for those facilities shall be equivalent to the licensure fee for intermediate care facility/developmentally disabled-nursing facilities during the same year. Thereafter, the licensure fee for ICF/DD-CN facilities shall be established pursuant to the same procedures described in this section.

(B) In the first year of licensure for hospice facilities, the licensure fee shall be equivalent to the licensure fee for congregate living health facilities during the same year. Thereafter, the licensure fee for hospice facilities shall be established pursuant to the same procedures described in this section.

(c) Commencing in the 2015-16 fiscal year, the fees for skilled nursing facilities shall be increased so as to generate four hundred thousand dollars ($ 400,000) for the California Department of Aging's Long-Term Care Ombudsman Program for its work related to investigating complaints made against skilled nursing facilities and increasing visits to those facilities.

(d) Commencing February 1, 2007, and every February 1 thereafter, the department shall publish a list of estimated fees pursuant to this section. The calculation of estimated fees and the publication of the report and list of estimated fees shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*.

(e) Notwithstanding *Section 10231.5 of the Government Code*, by February 1 of each year, the department shall prepare the following reports and shall make those reports, and the list of estimated fees required to be published pursuant to subdivision (d), available to the public by submitting them to the Legislature and posting them on the department's Internet Web site:

(1) A report of all costs for activities of the Licensing and Certification Program. At a minimum, this report shall include a narrative of all baseline adjustments and their calculations, a description of how each category of facility was calculated, descriptions of assumptions used in any calculations, and shall recommend Licensing and Certification Program fees in accordance with the following:

(A) Projected workload and costs shall be grouped for each fee category, including workload costs for facility categories that have been established by statute and for which licensing regulations and procedures are under development.

(B) Cost estimates, and the estimated fees, shall be based on the appropriation amounts in the Governor's proposed budget for the next fiscal year, with and without policy adjustments to the fee methodology.

(C) The allocation of program, operational, and administrative overhead, and indirect costs to fee categories shall be based on generally accepted cost allocation methods. Significant items of costs shall be directly charged to fee categories if the expenses can be reasonably identified to the fee category that caused them. Indirect and overhead costs shall be allocated to all fee categories using a generally accepted cost allocation method.

(D) The amount of federal funds and General Fund moneys to be received in the budget year shall be estimated and allocated to each fee category based upon an appropriate metric.

(E) The fee for each category shall be determined by dividing the aggregate state share of all costs for the Licensing and Certification Program by the appropriate metric for the category of licensure. Amounts actually received for new licensure applications, including change of ownership applications, and late payment penalties, pursuant to Section 1266.5, during each fiscal year shall be calculated and 95 percent shall be applied to the appropriate fee categories in determining Licensing and Certification Program fees for the second fiscal year following receipt of those funds. The remaining 5 percent shall be retained in the fund as a reserve until appropriated.

(2)

(A) A staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

(B) The analysis under this paragraph shall be made available to interested persons and shall include all of the following:

(i) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.

(ii) The percentage of time devoted to licensing and certification activities for the various types of health facilities.

(iii) The number of facilities receiving full surveys and the frequency and number of followup visits.

(iv) The number and timeliness of complaint investigations, including data on the department's compliance with the requirements of paragraphs (3), (4), and (5) of subdivision (a) of Section 1420.

(v) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(vi) Other applicable activities of the licensing and certification division.

(3) The annual program fee report described in subdivision (d) of Section 1416.36.

(f) The reports required pursuant to subdivision (e) shall be submitted in compliance with *Section 9795 of the Government Code*.

(g)

(1) The department shall adjust the list of estimated fees published pursuant to subdivision (d) if the annual Budget Act or other enacted legislation includes an appropriation that differs from those proposed in the Governor's proposed budget for that fiscal year.

(2) The department shall publish a final fee list, with an explanation of any adjustment, by the issuance of an all facilities letter, by posting the list on the department's Internet Web site, and by including the final fee list as part of the licensing application package, within 14 days of the enactment of the annual Budget Act. The adjustment of fees and the publication of the final fee list shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*.

(h)

(1) Fees shall not be assessed or collected pursuant to this section from any state department, authority, bureau, commission, or officer, unless federal financial participation would become available by doing so and an appropriation is included in the annual Budget Act for that state department, authority, bureau, commission, or officer for this purpose. Fees shall not be assessed or collected pursuant to this section from any clinic that is certified only by the federal government and is exempt from licensure under Section 1206, unless federal financial participation would become available by doing so.

(2) For the 2006-07 state fiscal year, a fee shall not be assessed or collected pursuant to this section from any general acute care hospital owned by a health care district with 100 beds or less.

(i) The Licensing and Certification Program may change annual license expiration renewal dates to provide for efficiencies in operational processes or to provide for sufficient cashflow to pay for expenditures. If an annual license expiration date is changed, the renewal fee shall be prorated accordingly. Facilities shall be provided with a 60-day notice of any change in their annual license renewal date.

(j) Commencing with the 2018-19 November Program estimate, the Licensing and Certification Program shall evaluate the feasibility of reducing investigation timelines based on experience with implementing paragraphs (3), (4), and (5) of subdivision (a) of Section 1420.

SEC. 174.

Section 1279.7 of the Health and Safety Code is amended to read:

1279.7.

(a) A health facility, as defined in subdivision (a), (b), (c), or (f) of Section 1250, shall implement a facilitywide hand hygiene program.

(b) Commencing January 1, 2017, a health facility, as defined in subdivision (a), (b), (c), or (f) of Section 1250, is prohibited from using an epidural connector that would fit into a connector other than the type it was intended for, unless an emergency or urgent situation exists and the prohibition would impair the ability to provide health care.

(c) Commencing January 1, 2016, a health facility, as defined in subdivision (a), (b), (c), or (f) of Section 1250, is prohibited from using an intravenous connector that would fit into a connector other than the type it was intended for, unless an emergency or urgent situation exists and the prohibition would impair the ability to provide health care.

(d) Commencing July 1, 2016, a health facility, as defined in subdivision (a), (b), (c), or (f) of Section 1250, is prohibited from using an enteral feeding connector that would fit into a connector other than the type it was intended for, unless an emergency or urgent situation exists and the prohibition would impair the ability to provide health care.

(e) The Advanced Medical Technology Association shall, on January 1 of each year until the standards are developed, provide the Legislature with a report on the progress of the International Organization for Standardization in developing new design standards for connectors for intravenous, epidural, or enteral applications.

(f) A health facility that is required to develop a patient safety plan pursuant to Section 1279.6 shall include in the patient safety plan measures to prevent adverse events associated with misconnecting intravenous, enteral feeding, and epidural lines. This subdivision shall become inoperative as to epidural connectors upon the operative date of subdivision (b), and as to intravenous connectors upon the operative date of subdivision (c), and as to enteral feeding connectors upon the operative date of subdivision (d).

SEC. 175.

Section 1342.71 of the Health and Safety Code, as added by Section 1 of Chapter 619 of the Statutes of 2015, is amended to read:

1342.71. (a) The Legislature hereby finds and declares all of the following:

(1) The federal Patient Protection and Affordable Care Act, its implementing regulations and guidance, and related state law prohibit discrimination based on a person's expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions, including benefit designs that have the effect of discouraging the enrollment of individuals with significant health needs.

(2) The Legislature intends to build on existing state and federal law to ensure that health coverage benefit designs do not have an unreasonable discriminatory impact on chronically ill individuals, and to ensure affordability of outpatient prescription drugs.

(3) Assignment of all or most prescription medications that treat a specific medical condition to the highest cost tiers of a formulary may effectively discourage enrollment by chronically ill individuals, and may result in lower adherence to a prescription drug treatment regimen.

(b) A nongrandfathered health care service plan contract that is offered, amended, or renewed on or after January 1, 2017, shall comply with this section. The cost-sharing limits established by this section apply only to outpatient prescription drugs covered by the contract that constitute essential health benefits, as defined in Section 1367.005.

(c) A health care service plan contract that provides coverage for outpatient prescription drugs shall cover medically necessary prescription drugs, including nonformulary drugs determined to be medically necessary consistent with this chapter.

(d)

(1) Consistent with federal law and guidance, the formulary or formularies for outpatient prescription drugs maintained by the health care service plan shall not discourage the enrollment of individuals with health conditions and shall not reduce the generosity of the benefit for enrollees with a particular condition in a manner that is not based on a clinical indication or reasonable medical management practices. Section 1342.7 and any regulations adopted pursuant to that section shall be interpreted in a manner that is consistent with this section.

(2) For combination antiretroviral drug treatments that are medically necessary for the treatment of AIDS/HIV, a health care service plan contract shall cover a single-tablet drug regimen that is as effective as a multitablet regimen unless, consistent with clinical guidelines and peer-reviewed scientific and medical literature, the multitablet regimen is clinically equally or more effective and more likely to result in adherence to a drug regimen.

(e)

(1) With respect to an individual or group health care service plan contract subject to Section 1367.006, the copayment, coinsurance, or any other form of cost sharing for a covered

outpatient prescription drug for an individual prescription for a supply of up to 30 days shall not exceed two hundred fifty dollars ($ 250), except as provided in paragraphs (2) and (3).

(2) With respect to products with actuarial value at, or equivalent to, the bronze level, cost sharing for a covered outpatient prescription drug for an individual prescription for a supply of up to 30 days shall not exceed five hundred dollars ($ 500), except as provided in paragraph (3).

(3) For a health care service plan contract that is a “high deductible health plan” under the definition set forth in Section 223(c)(2) of Title 26 of the United States Code, paragraphs (1) and (2) of this subdivision shall apply only once an enrollee’s deductible has been satisfied for the year.

(4) For a nongrandfathered individual or small group health care service plan contract, the annual deductible for outpatient drugs, if any, shall not exceed twice the amount specified in paragraph (1) or (2), respectively.

(5) For purposes of paragraphs (1) and (2), “any other form of cost sharing” shall not include a deductible.

(f)

(1) If a health care service plan contract for a nongrandfathered individual or small group product maintains a drug formulary grouped into tiers that includes a fourth tier, a health care service plan contract shall use the following definitions for each tier of the drug formulary:

(A) Tier one shall consist of most generic drugs and low-cost preferred brand name drugs.

(B) Tier two shall consist of nonpreferred generic drugs, preferred brand name drugs, and any other drugs recommended by the health care service plan’s pharmacy and therapeutics committee based on safety, efficacy, and cost.

(C) Tier three shall consist of nonpreferred brand name drugs or drugs that are recommended by the health care service plan’s pharmacy and therapeutics committee based on safety, efficacy, and cost, or that generally have a preferred and often less costly therapeutic alternative at a lower tier.

(D) Tier four shall consist of drugs that are biologics, drugs that the FDA or the manufacturer requires to be distributed through a specialty pharmacy, drugs that require the enrollee to have special training or clinical monitoring for self-administration, or drugs that cost the health plan more than six hundred dollars ($ 600) net of rebates for a one-month supply.

(2) In placing specific drugs on specific tiers, or choosing to place a drug on the formulary, the health care service plan shall take into account the other provisions of this section and this chapter.

(3) A health care service plan contract may maintain a drug formulary with fewer than four tiers.

(4) This section shall not be construed to limit a health care service plan from placing any drug in a lower tier.

(g) A health care service plan contract shall ensure that the placement of prescription drugs on formulary tiers is based on clinically indicated, reasonable medical management practices.

(h) This section shall not be construed to require a health care service plan to impose cost sharing. This section shall not be construed to require cost sharing for prescription drugs that state or federal law otherwise requires to be provided without cost sharing.

(i) This section does not require or authorize a health care service plan that contracts with the State Department of Health Care Services to provide services to Medi-Cal beneficiaries to provide

coverage for prescription drugs that are not required pursuant to those programs or contracts, or to limit or exclude any prescription drugs that are required by those programs or contracts.

(j) In the provision of outpatient prescription drug coverage, a health care service plan may utilize formulary, prior authorization, step therapy, or other reasonable medical management practices consistent with this chapter.

(k) This section does not apply to a health care service plan that contracts with the State Department of Health Care Services.

(l) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 176.

Section 1358.18 of the Health and Safety Code is amended to read:

1358.18.

In the interest of full and fair disclosure, and to ensure the availability of necessary consumer information to potential subscribers or enrollees not possessing a special knowledge of Medicare, health care service plans, or Medicare supplement contracts, an issuer shall comply with the following provisions:

(a)

Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medi-Cal coverage, or another health insurance policy or certificate or plan contract in force or whether a Medicare supplement contract is intended to replace any other disability policy or certificate, or plan contract, presently in force. A supplementary application or other form to be signed by the applicant and solicitor containing those questions and statements may be used.

"(Statements)

(1) You do not need more than one Medicare supplement policy or contract.

(2) If you purchase this contract, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medi-Cal or Medicaid and may not need a Medicare supplement contract.

(4) If, after purchasing this contract, you become eligible for Medi-Cal, the benefits and premiums under your Medicare supplement contract can be suspended, if requested, during your entitlement to benefits under Medi-Cal or Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal or Medicaid. If you are no longer entitled to Medi-Cal or Medicaid, your suspended Medicare supplement contract or, if that is no longer available, a substantially equivalent contract, will be reinstituted if requested within 90 days of losing Medi-Cal or Medicaid eligibility. If the Medicare supplement contract provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your contract was suspended, the reinstituted contract will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(5) If you are eligible for, and have enrolled in, a Medicare supplement contract by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement contract can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you

suspend your Medicare supplement contract under these circumstances and later lose your employer or union-based group health plan, your suspended Medicare supplement contract or, if that is no longer available, a substantially equivalent contract, will be reinstituted if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement contract provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your contract was suspended, the reinstituted contract will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(6)

Counseling services are available in this state to provide advice concerning your purchase of Medicare supplement coverage and concerning medical assistance through the Medi-Cal or Medicaid Program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB). Information regarding counseling services may be obtained from the California Department of Aging.

(Questions)

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance contract or that you had certain rights to buy such a contract, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application.

PLEASE ANSWER ALL QUESTIONS.

[Please mark Yes or No below with an “X.”]

To the best of your knowledge,

(1)

(a)

Did you turn 65 years of age in the last 6 months?

Yes____ No____

(b)

Did you enroll in Medicare Part B in the last 6 months?

Yes____ No____

(c) If yes, what is the effective date? _ _ _ _ _ _ _ _ _

(2)

Are you covered for medical assistance through California’s Medi-Cal program?

NOTE TO APPLICANT: If you have a share of cost under the Medi-Cal program, please answer NO to this question.

Yes____ No____

If yes,

(a)

Will Medi-Cal pay your premiums for this Medicare supplement contract?

Yes____ No____

(b)

Do you receive benefits from Medi-Cal OTHER THAN payments toward your Medicare Part B premium?

Yes____ No____

(3)

(a)

If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

START __/__/__ END __/__/__

(b)

If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement contract?

Yes____ No____

(c)

Was this your first time in this type of Medicare plan?

Yes____ No____

(d)

Did you drop a Medicare supplement contract to enroll in the Medicare plan?

Yes____ No____

(4)

(a)

Do you have another Medicare supplement policy or certificate or contract in force?

Yes____ No____

(b)

If so, with what company, and what plan do you have? [optional for Direct Mailers]

Yes____ No____

(c)

If so, do you intend to replace your current Medicare supplement policy or certificate or contract with this contract?

Yes____ No____

(5)

Have you had coverage under any other health insurance within the past 63 days? (For example, an employer, union, or individual plan)

Yes____ No____

(a)

If so, with what companies and what kind of policy?

_ _

_ _

_ _

_ _

(b)

What are your dates of coverage under the other policy?

START __/__/__ END __/__/__

(If you are still covered under the other policy, leave “END” blank)."

(b) Solicitors shall list any other health insurance policies or plan contracts they have sold to the applicant as follows:

(1) List policies and contracts sold that are still in force.

(2) List policies and contracts sold in the past five years that are no longer in force.

(c) An issuer issuing Medicare supplement contracts without a solicitor or solicitor firm (a direct response issuer) shall return to the applicant, upon delivery of the contract, a copy of the application or supplemental forms, signed by the applicant and acknowledged by the issuer.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, an issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance for delivery of the Medicare supplement contract, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the contract the notice regarding replacement of Medicare supplement coverage.

(e)

The notice required by subdivision (d) for an issuer shall be provided in substantially the following form in no less than 12-point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE ADVANTAGE

(Company name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate an existing Medicare supplement policy or contract or Medicare Advantage plan and replace it with a contract to be issued by [Plan Name]. Your contract to be issued by [Plan Name] will provide 30 days within which you may decide without cost whether you desire to keep the contract. You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy or contract only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY PLAN, SOLICITOR, SOLICITOR FIRM, OR OTHER REPRESENTATIVE:

(1)

I have reviewed your current medical or health coverage. To the best of my knowledge, the replacement of coverage involved in this transaction does not duplicate coverage or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your

Medicare Advantage plan. The replacement contract is being purchased for the following reason (check one):

__Additional benefits.

__No change in benefits, but lower premiums or charges.

__Fewer benefits and lower premiums or charges.

__Plan has outpatient prescription drug coverage and applicant is enrolled

in Medicare Part D.

__Disenrollment from a Medicare Advantage plan. Reasons for disenrollment:

__Other. (please specify) _____.

(2) If the issuer of the Medicare supplement contract being applied for does not impose, or is otherwise prohibited from imposing, preexisting condition limitations, please skip to statement 3 below. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new contract. This could result in denial or delay of a claim for benefits under the new contract, whereas a similar claim might have been payable under your present contract.

(3) State law provides that your replacement Medicare supplement contract may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The plan will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new coverage for similar benefits to the extent that time was spent (depleted) under the original contract.

(4) If you still wish to terminate your present policy or contract and replace it with new coverage, be certain to truthfully and completely answer any and all questions on the application concerning your medical and health history. Failure to include all material medical information on an application requesting that information may provide a basis for the plan to deny any future claims and to refund your prepaid or periodic payment as though your contract had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded.

(5)

Do not cancel your present Medicare supplement coverage until you have received your new contract and are sure you want to keep it.

(Signature of Solicitor, Solicitor Firm, or Other Representative) [Typed Name and Address of Plan, Solicitor, or Solicitor Firm] (Applicant's Signature) (Date)

(f) The application form or other consumer information for persons eligible for Medicare and used by an issuer shall contain, as an attachment, a Medicare supplement buyer's guide in the form approved by the director. The application or other consumer information, containing, as an attachment, the buyer's guide, shall be mailed or delivered to each applicant applying for that coverage at or before the time of application and, to establish compliance with this subdivision, the issuer shall obtain an acknowledgment of receipt of the attached buyer's guide from each applicant. An issuer shall not make use of or otherwise disseminate any buyer's guide that does not accurately outline current Medicare supplement benefits. An issuer shall not be required to provide more than one copy of the buyer's guide to any applicant.

(g) An issuer may comply with the requirement of this section in the case of group contracts by causing the subscriber (1) to disseminate copies of the disclosure form containing as an attachment the buyer's guide to all persons eligible under the group contract at the time those persons are offered the Medicare supplement plan, and (2) collecting and forwarding to the issuer an acknowledgment of receipt of the disclosure form containing, as an attachment, the buyer's guide from each enrollee.

(h) An issuer shall not require, request, or obtain health information as part of the application process for an applicant who is eligible for guaranteed issuance of, or open enrollment for, any Medicare supplement coverage pursuant to Section 1358.11 or 1358.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 1358.11 when the applicant is first enrolled in Medicare Part B. The application form shall include a clear and conspicuous statement that the applicant is not required to provide health information during a period where guaranteed issue or open enrollment applies, as specified in Section 1358.11 or 1358.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 1358.11 when the applicant is first enrolled in Medicare Part B, and shall inform the applicant of those periods of guaranteed issuance of Medicare supplement coverage. This subdivision does not prohibit an issuer from requiring proof of eligibility for a guaranteed issuance of Medicare supplement coverage.

SEC. 177.

Section 1367.005 of the Health and Safety Code, as added by Section 2 of Chapter 648 of the Statutes of 2015, is amended to read:

1367.005.

(a) An individual or small group health care service plan contract issued, amended, or renewed on or after January 1, 2017, shall, at a minimum, include coverage for essential health benefits pursuant to PPACA and as outlined in this section. For purposes of this section, "essential health benefits" means all of the following:

(1) Health benefits within the categories identified in Section 1302(b) of PPACA: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care.

(2)

(A) The health benefits covered by the Kaiser Foundation Health Plan Small Group HMO 30 plan (federal health product identification number 40513CA035) as this plan was offered during the first quarter of 2014, as follows, regardless of whether the benefits are specifically referenced in the evidence of coverage or plan contract for that plan:

(i) Medically necessary basic health care services, as defined in subdivision (b) of Section 1345 and in Section 1300.67 of Title 28 of the California Code of Regulations.

(ii) The health benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in the following sections: Sections 1367.002, 1367.06, and 1367.35 (preventive services for children); Section 1367.25 (prescription drug coverage for contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha-fetoprotein testing); Section 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for laryngectomy); Section 1367.62 (maternity hospital stay); Section 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies); Section 1367.64 (prostate cancer); Section 1367.65 (mammography); Section 1367.66

(cervical cancer); Section 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis); Section 1367.68 (surgical procedures for jaw bones); Section 1367.71 (anesthesia for dental); Section 1367.9 (conditions attributable to diethylstilbestrol); Section 1368.2 (hospice care); Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency response ambulance or ambulance transport services); subdivision (b) of Section 1373 (sterilization operations or procedures); Section 1373.4 (inpatient hospital and ambulatory maternity); Section 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for HIV); Section 1374.72 (mental health parity); and Section 1374.73 (autism/behavioral health treatment).

(iii) Any other benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in those statutes.

(iv) The health benefits covered by the plan that are not otherwise required to be covered under this chapter, to the extent required pursuant to Sections 1367.18, 1367.21, 1367.215, 1367.22, 1367.24, and 1367.25, and Section 1300.67.24 of Title 28 of the California Code of Regulations.

(v) Any other health benefits covered by the plan that are not otherwise required to be covered under this chapter.

(B) If there are any conflicts or omissions in the plan identified in subparagraph (A) as compared with the requirements for health benefits under this chapter that were enacted prior to December 31, 2011, the requirements of this chapter shall be controlling, except as otherwise specified in this section.

(C) Notwithstanding subparagraph (B) or any other provision of this section, the home health services benefits covered under the plan identified in subparagraph (A) shall be deemed to not be in conflict with this chapter.

(D) For purposes of this section, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (*Public Law 110-343*) shall apply to a contract subject to this section. Coverage of mental health and substance use disorder services pursuant to this paragraph, along with any scope and duration limits imposed on the benefits, shall be in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (*Public Law 110-343*), and all rules, regulations, or guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(3) With respect to habilitative services, in addition to any habilitative services and devices identified in paragraph (2), coverage shall also be provided as required by federal rules, regulations, and guidance issued pursuant to Section 1302(b) of PPACA. Habilitative services and devices shall be covered under the same terms and conditions applied to rehabilitative services and devices under the plan contract. Limits on habilitative and rehabilitative services and devices shall not be combined.

(4) With respect to pediatric vision care, the same health benefits for pediatric vision care covered under the Federal Employees Dental and Vision Insurance Program vision plan with the largest national enrollment as of the first quarter of 2014. The pediatric vision care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any vision services covered under the plan identified in paragraph (2).

(5) With respect to pediatric oral care, the same health benefits for pediatric oral care covered under the dental benefit received by children under the Medi-Cal program as of 2014, including the provision of medically necessary orthodontic care provided pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009. The pediatric oral care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any dental or orthodontic services covered under the plan identified in paragraph (2).

(b) Treatment limitations imposed on health benefits described in this section shall be no greater than the treatment limitations imposed by the corresponding plans identified in subdivision (a), subject to the requirements set forth in paragraph (2) of subdivision (a).

(c) Except as provided in subdivision (d), nothing in this section shall be construed to permit a health care service plan to make substitutions for the benefits required to be covered under this section, regardless of whether those substitutions are actuarially equivalent.

(d) To the extent permitted under Section 1302 of PPACA and any rules, regulations, or guidance issued pursuant to that section, and to the extent that substitution would not create an obligation for the state to defray costs for any individual, a plan may substitute its prescription drug formulary for the formulary provided under the plan identified in subdivision (a) as long as the coverage for prescription drugs complies with the sections referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision (a) that apply to prescription drugs.

(e) A health care service plan, or its agent, solicitor, or representative, shall not issue, deliver, renew, offer, market, represent, or sell any product, contract, or discount arrangement as compliant with the essential health benefits requirement in federal law, unless it meets all of the requirements of this section.

(f) This section applies regardless of whether the plan contract is offered inside or outside the California Health Benefit Exchange created by *Section 100500 of the Government Code*.

(g) This section shall not be construed to exempt a plan or a plan contract from meeting other applicable requirements of law.

(h) This section shall not be construed to prohibit a plan contract from covering additional benefits, including, but not limited to, spiritual care services that are tax deductible under *Section 213 of the Internal Revenue Code*.

(i) Subdivision (a) does not apply to any of the following:

(1) A specialized health care service plan contract.

(2) A Medicare supplement plan.

(3) A plan contract that qualifies as a grandfathered health plan under Section 1251 of PPACA or any rules, regulations, or guidance issued pursuant to that section.

(j) This section shall not be implemented in a manner that conflicts with a requirement of PPACA.

(k) This section shall be implemented only to the extent essential health benefits are required pursuant to PPACA.

(l) An essential health benefit is required to be provided under this section only to the extent that federal law does not require the state to defray the costs of the benefit.

(m) This section does not obligate the state to incur costs for the coverage of benefits that are not essential health benefits as defined in this section.

(n) A plan is not required to cover, under this section, changes to health benefits that are the result of statutes enacted on or after December 31, 2011.

(o)

(1) The department may adopt emergency regulations implementing this section. The department may, on a one-time basis, readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations implementing this section and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be

submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(3) The initial adoption of emergency regulations implementing this section made during the 2015-16 Regular Session of the Legislature and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(4) The director shall consult with the Insurance Commissioner to ensure consistency and uniformity in the development of regulations under this subdivision.

(5) This subdivision shall become inoperative on July 1, 2018.

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

(1) "Habilitative services" means health care services and devices that help a person keep, learn, or improve skills and functioning for daily living. Examples include therapy for a child who is not walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology, and other services for people with disabilities in a variety of inpatient or outpatient settings, or both. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the plan contract.

(2)

(A) "Health benefits," unless otherwise required to be defined pursuant to federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA, means health care items or services for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, disease, or a health condition, including a behavioral health condition.

(B) "Health benefits" does not mean any cost-sharing requirements such as copayments, coinsurance, or deductibles.

(3) "PPACA" means the federal Patient Protection and Affordable Care Act (*Public Law 111-148*), as amended by the federal Health Care and Education Reconciliation Act of 2010 (*Public Law 111-152*), and any rules, regulations, or guidance issued thereunder.

(4) "Small group health care service plan contract" means a group health care service plan contract issued to a small employer, as defined in Section 1357.500.

SEC. 178.

*Section 1367.27 of the Health and Safety Code*is amended to read:

1367.27.

(a) Commencing July 1, 2016, a health care service plan shall publish and maintain a provider directory or directories with information on contracting providers that deliver health care services to the plan's enrollees, including those that accept new patients. A provider directory shall not list or include information on a provider that is not currently under contract with the plan.

(b) A health care service plan shall provide the directory or directories for the specific network offered for each product using a consistent method of network and product naming, numbering, or other classification method that ensures the public, enrollees, potential enrollees, the department, and other state or federal agencies can easily identify the networks and plan products in which a provider participates. By July 31, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, a health care service plan shall use the

naming, numbering, or classification method developed by the department pursuant to subdivision (k).

(c)

(1) An online provider directory or directories shall be available on the plan's Internet Web site to the public, potential enrollees, enrollees, and providers without any restrictions or limitations. The directory or directories shall be accessible without any requirement that an individual seeking the directory information demonstrate coverage with the plan, indicate interest in obtaining coverage with the plan, provide a member identification or policy number, provide any other identifying information, or create or access an account.

(2) The online provider directory or directories shall be accessible on the plan's public Internet Web site through an identifiable link or tab and in a manner that is accessible and searchable by enrollees, potential enrollees, the public, and providers. By July 31, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, the plan's public Internet Web site shall allow provider searches by, at a minimum, name, practice address, city, ZIP Code, California license number, National Provider Identifier number, admitting privileges to an identified hospital, product, tier, provider language or languages, provider group, hospital name, facility name, or clinic name, as appropriate.

(d)

(1) A health care service plan shall allow enrollees, potential enrollees, providers, and members of the public to request a printed copy of the provider directory or directories by contacting the plan through the plan's toll-free telephone number, electronically, or in writing. A printed copy of the provider directory or directories shall include the information required in subdivisions (h) and (i). The printed copy of the provider directory or directories shall be provided to the requester by mail postmarked no later than five business days following the date of the request and may be limited to the geographic region in which the requester resides or works or intends to reside or work.

(2) A health care service plan shall update its printed provider directory or directories at least quarterly, or more frequently, if required by federal law.

(e)

(1) The plan shall update the online provider directory or directories, at least weekly, or more frequently, if required by federal law, when informed of and upon confirmation by the plan of any of the following:

(A) A contracting provider is no longer accepting new patients for that product, or an individual provider within a provider group is no longer accepting new patients.

(B) A provider is no longer under contract for a particular plan product.

(C) A provider's practice location or other information required under subdivision (h) or (i) has changed.

(D) Upon completion of the investigation described in subdivision (o), a change is necessary based on an enrollee complaint that a provider was not accepting new patients, was otherwise not available, or whose contact information was listed incorrectly.

(E) Any other information that affects the content or accuracy of the provider directory or directories.

(2) Upon confirmation of any of the following, the plan shall delete a provider from the directory or directories when:

(A) A provider has retired or otherwise has ceased to practice.

(B) A provider or provider group is no longer under contract with the plan for any reason.

(C) The contracting provider group has informed the plan that the provider is no longer associated with the provider group and is no longer under contract with the plan.

(f) The provider directory or directories shall include both an email address and a telephone number for members of the public and providers to notify the plan if the provider directory information appears to be inaccurate. This information shall be disclosed prominently in the directory or directories and on the plan's Internet Web site.

(g) The provider directory or directories shall include the following disclosures informing enrollees that they are entitled to both of the following:

(1) Language interpreter services, at no cost to the enrollee, including how to obtain interpretation services in accordance with Section 1367.04.

(2) Full and equal access to covered services, including enrollees with disabilities as required under the federal Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

(h) A full service health care service plan and a specialized mental health plan shall include all of the following information in the provider directory or directories:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license.

(5) The area of specialty, including board certification, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group currently under contract with the plan through which the provider sees enrollees.

(8) A listing for each of the following providers that are under contract with the plan:

(A) For physicians and surgeons, the provider group, and admitting privileges, if any, at hospitals contracted with the plan.

(B) Nurse practitioners, physician assistants, psychologists, acupuncturists, optometrists, podiatrists, chiropractors, licensed clinical social workers, marriage and family therapists, professional clinical counselors, qualified autism service providers, as defined in Section 1374.73, nurse midwives, and dentists.

(C) For federally qualified health centers or primary care clinics, the name of the federally qualified health center or clinic.

(D) For any provider described in subparagraph (A) or (B) who is employed by a federally qualified health center or primary care clinic, and to the extent their services may be accessed and are covered through the contract with the plan, the name of the provider, and the name of the federally qualified health center or clinic.

(E) Facilities, including, but not limited to, general acute care hospitals, skilled nursing facilities, urgent care clinics, ambulatory surgery centers, inpatient hospice, residential care facilities, and inpatient rehabilitation facilities.

(F) Pharmacies, clinical laboratories, imaging centers, and other facilities providing contracted health care services.

(9) The provider directory or directories may note that authorization or referral may be required to access some providers.

(10) Non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 1367.04, if any, on the provider's staff.

(11) Identification of providers who no longer accept new patients for some or all of the plan's products.

(12) The network tier to which the provider is assigned, if the provider is not in the lowest tier, as applicable. Nothing in this section shall be construed to require the use of network tiers other than contract and noncontracting tiers.

(13) All other information necessary to conduct a search pursuant to paragraph (2) of subdivision (c).

(i) A vision, dental, or other specialized health care service plan, except for a specialized mental health plan, shall include all of the following information for each provider directory or directories used by the plan for its networks:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license, if applicable.

(5) The area of specialty, including board certification, or other accreditation, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group or specialty plan practice group currently under contract with the plan through which the provider sees enrollees.

(8) The names of each allied health care professional to the extent there is a direct contract for those services covered through a contract with the plan.

(9) The non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 1367.04, if any, on the provider's staff.

(10) Identification of providers who no longer accept new patients for some or all of the plan's products.

(11) All other applicable information necessary to conduct a provider search pursuant to paragraph (2) of subdivision (c).

(j)

(1) The contract between the plan and a provider shall include a requirement that the provider inform the plan within five business days when either of the following occurs:

(A) The provider is not accepting new patients.

(B) If the provider had previously not accepted new patients, the provider is currently accepting new patients.

(2) If a provider who is not accepting new patients is contacted by an enrollee or potential enrollee seeking to become a new patient, the provider shall direct the enrollee or potential enrollee to both the plan for additional assistance in finding a provider and to the department to report any inaccuracy with the plan's directory or directories.

(3) If an enrollee or potential enrollee informs a plan of a possible inaccuracy in the provider directory or directories, the plan shall promptly investigate, and, if necessary, undertake corrective action within 30 business days to ensure the accuracy of the directory or directories.

(k)

(1) On or before December 31, 2016, the department shall develop uniform provider directory standards to permit consistency in accordance with subdivision (b) and paragraph (2) of subdivision (c) and development of a multiplan directory by another entity. Those standards shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*), until January 1, 2021. No more than two revisions of those standards shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*) pursuant to this subdivision.

(2) In developing the standards under this subdivision, the department shall seek input from interested parties throughout the process of developing the standards and shall hold at least one public meeting. The department shall take into consideration any requirements for provider directories established by the federal Centers for Medicare and Medicaid Services and the State Department of Health Care Services.

(3) By July 31, 2017, or 12 months after the date provider directory standards are developed under this subdivision, whichever occurs later, a plan shall use the standards developed by the department for each product offered by the plan.

(l)

(1) A plan shall take appropriate steps to ensure the accuracy of the information concerning each provider listed in the plan's provider directory or directories in accordance with this section, and shall, at least annually, review and update the entire provider directory or directories for each product offered. Each calendar year the plan shall notify all contracted providers described in subdivisions (h) and (i) as follows:

(A) For individual providers who are not affiliated with a provider group described in subparagraph (A) or (B) of paragraph (8) of subdivision (h) and providers described in subdivision (i), the plan shall notify each provider at least once every six months.

(B) For all other providers described in subdivision (h) who are not subject to the requirements of subparagraph (A), the plan shall notify its contracted providers to ensure that all of the providers are contacted by the plan at least once annually.

(2) The notification shall include all of the following:

(A) The information the plan has in its directory or directories regarding the provider or provider group, including a list of networks and plan products that include the contracted provider or provider group.

(B) A statement that the failure to respond to the notification may result in a delay of payment or reimbursement of a claim pursuant to subdivision (p).

(C) Instructions on how the provider or provider group can update the information in the provider directory or directories using the online interface developed pursuant to subdivision (m).

(3) The plan shall require an affirmative response from the provider or provider group acknowledging that the notification was received. The provider or provider group shall confirm that the information in the provider directory or directories is current and accurate or update the information required to be in the directory or directories pursuant to this section, including whether or not the provider or provider group is accepting new patients for each plan product.

(4) If the plan does not receive an affirmative response and confirmation from the provider that the information is current and accurate or, as an alternative, updates any information required to be in the directory or directories pursuant to this section, within 30 business days, the plan shall take no more than 15 business days to verify whether the provider's information is correct

or requires updates. The plan shall document the receipt and outcome of each attempt to verify the information. If the plan is unable to verify whether the provider's information is correct or requires updates, the plan shall notify the provider 10 business days in advance of removal that the provider will be removed from the provider directory or directories. The provider shall be removed from the provider directory or directories at the next required update of the provider directory or directories after the 10-business-day notice period. A provider shall not be removed from the provider directory or directories if he or she responds before the end of the 10-business-day notice period.

(5) General acute care hospitals shall be exempt from the requirements in paragraphs (3) and (4).

(m) A plan shall establish policies and procedures with regard to the regular updating of its provider directory or directories, including the weekly, quarterly, and annual updates required pursuant to this section, or more frequently, if required by federal law or guidance.

(1) The policies and procedures described under this subdivision shall be submitted by a plan annually to the department for approval and in a format described by the department pursuant to Section 1367.035.

(2) Every health care service plan shall ensure processes are in place to allow providers to promptly verify or submit changes to the information required to be in the directory or directories pursuant to this section. Those processes shall, at a minimum, include an online interface for providers to submit verification or changes electronically and shall generate an acknowledgment of receipt from the health care service plan. Providers shall verify or submit changes to information required to be in the directory or directories pursuant to this section using the process required by the health care service plan.

(3) The plan shall establish and maintain a process for enrollees, potential enrollees, other providers, and the public to identify and report possible inaccurate, incomplete, or misleading information currently listed in the plan's provider directory or directories. This process shall, at a minimum, include a telephone number and a dedicated email address at which the plan will accept these reports, as well as a hyperlink on the plan's provider directory Internet Web site linking to a form where the information can be reported directly to the plan through its Internet Web site.

(n)

(1) This section does not prohibit a plan from requiring its provider groups or contracting specialized health care service plans to provide information to the plan that is required by the plan to satisfy the requirements of this section for each of the providers that contract with the provider group or contracting specialized health care service plan. This responsibility shall be specifically documented in a written contract between the plan and the provider group or contracting specialized health care service plan.

(2) If a plan requires its contracting provider groups or contracting specialized health care service plans to provide the plan with information described in paragraph (1), the plan shall continue to retain responsibility for ensuring that the requirements of this section are satisfied.

(3) A provider group may terminate a contract with a provider for a pattern or repeated failure of the provider to update the information required to be in the directory or directories pursuant to this section.

(4) A provider group is not subject to the payment delay described in subdivision (p) if all of the following occurs:

(A) A provider does not respond to the provider group's attempt to verify the provider's information. As used in this paragraph, "verify" means to contact the provider in writing,

electronically, and by telephone to confirm whether the provider's information is correct or requires updates.

(B) The provider group documents its efforts to verify the provider's information.

(C) The provider group reports to the plan that the provider should be deleted from the provider group in the plan directory or directories.

(5) Section 1375.7, known as the Health Care Providers' Bill of Rights, applies to any material change to a provider contract pursuant to this section.

(o)

(1) Whenever a health care service plan receives a report indicating that information listed in its provider directory or directories is inaccurate, the plan shall promptly investigate the reported inaccuracy and, no later than 30 business days following receipt of the report, either verify the accuracy of the information or update the information in its provider directory or directories, as applicable.

(2) When investigating a report regarding its provider directory or directories, the plan shall, at a minimum, do the following:

(A) Contact the affected provider no later than five business days following receipt of the report.

(B) Document the receipt and outcome of each report. The documentation shall include the provider's name, location, and a description of the plan's investigation, the outcome of the investigation, and any changes or updates made to its provider directory or directories.

(C) If changes to a plan's provider directory or directories are required as a result of the plan's investigation, the changes to the online provider directory or directories shall be made no later than the next scheduled weekly update, or the update immediately following that update, or sooner if required by federal law or regulations. For printed provider directories, the change shall be made no later than the next required update, or sooner if required by federal law or regulations.

(p)

(1) Notwithstanding Sections 1371 and 1371.35, a plan may delay payment or reimbursement owed to a provider or provider group as specified in subparagraph (A) or (B), if the provider or provider group fails to respond to the plan's attempts to verify the provider's or provider group's information as required under subdivision (l). The plan shall not delay payment unless it has attempted to verify the provider's or provider group's information. As used in this subdivision, "verify" means to contact the provider or provider group in writing, electronically, and by telephone to confirm whether the provider's or provider group's information is correct or requires updates. A plan may seek to delay payment or reimbursement owed to a provider or provider group only after the 10-business day notice period described in paragraph (4) of subdivision (l) has lapsed.

(A) For a provider or provider group that receives compensation on a capitated or prepaid basis, the plan may delay no more than 50 percent of the next scheduled capitation payment for up to one calendar month.

(B) For any claims payment made to a provider or provider group, the plan may delay the claims payment for up to one calendar month beginning on the first day of the following month.

(2) A plan shall notify the provider or provider group 10 business days before it seeks to delay payment or reimbursement to a provider or provider group pursuant to this subdivision. If the plan delays a payment or reimbursement pursuant to this subdivision, the plan shall reimburse

the full amount of any payment or reimbursement subject to delay to the provider or provider group according to either of the following timelines, as applicable:

(A) No later than three business days following the date on which the plan receives the information required to be submitted by the provider or provider group pursuant to subdivision (l).

(B) At the end of the one-calendar month delay described in subparagraph (A) or (B) of paragraph (1), as applicable, if the provider or provider group fails to provide the information required to be submitted to the plan pursuant to subdivision (l).

(3) A plan may terminate a contract for a pattern or repeated failure of the provider or provider group to alert the plan to a change in the information required to be in the directory or directories pursuant to this section.

(4) A plan that delays payment or reimbursement under this subdivision shall document each instance a payment or reimbursement was delayed and report this information to the department in a format described by the department pursuant to Section 1367.035. This information shall be submitted along with the policies and procedures required to be submitted annually to the department pursuant to paragraph (1) of subdivision (m).

(5) With respect to plans with Medi-Cal managed care contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with *Section 14591) of the Welfare and Institutions Code*, this subdivision shall be implemented only to the extent consistent with federal law and guidance.

(q) In circumstances where the department finds that an enrollee reasonably relied upon materially inaccurate, incomplete, or misleading information contained in a health plan's provider directory or directories, the department may require the health plan to provide coverage for all covered health care services provided to the enrollee and to reimburse the enrollee for any amount beyond what the enrollee would have paid, had the services been delivered by an in-network provider under the enrollee's plan contract. Prior to requiring reimbursement in these circumstances, the department shall conclude that the services received by the enrollee were covered services under the enrollee's plan contract. In those circumstances, the fact that the services were rendered or delivered by a noncontracting or out-of-plan provider shall not be used as a basis to deny reimbursement to the enrollee.

(r) Whenever a plan determines as a result of this section that there has been a 10 percent change in the network for a product in a region, the plan shall file an amendment to the plan application with the department consistent with subdivision (f) of Section 1300.52 of Title 28 of the California Code of Regulations.

(s) This section applies to plans with Medi-Cal managed care contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with *Section 14591) of the Welfare and Institutions Code* to the extent consistent with federal law and guidance and state law guidance issued after January 1, 2016. Notwithstanding any other provision to the contrary in a plan contract with the State Department of Health Care Services, and to the extent consistent with federal law and guidance and state guidance issued after January 1, 2016, a Medi-Cal managed care plan that complies with the requirements of this section shall not be required to distribute a printed provider directory or directories, except as required by paragraph (1) of subdivision (d).

(t) A health plan that contracts with multiple employer welfare agreements regulated pursuant to Article 4.7 (commencing with *Section 742.20) of Chapter 1 of Part 2 of Division 1 of the Insurance Code* shall meet the requirements of this section.

(u) This section shall not be construed to alter a provider's obligation to provide health care services to an enrollee pursuant to the provider's contract with the plan.

(v) As part of the department's routine examination of the fiscal and administrative affairs of a health care service plan pursuant to Section 1382, the department shall include a review of the health care service plan's compliance with subdivision (p).

(w) For purposes of this section, "provider group" means a medical group, independent practice association, or other similar group of providers.

SEC. 179.

Section 1569.2 of the Health and Safety Code is amended to read:

1569.2.

As used in this chapter:

(a) "Administrator" means the individual designated by the licensee to act on behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(b) "Beneficial ownership interest" means an ownership interest through the possession of stock, equity in capital, or any interest in the profits of the applicant or licensee, or through the possession of such an interest in other entities that directly or indirectly hold an interest in the applicant or licensee. The percentage of beneficial ownership in the applicant or licensee that is held by any other entity is determined by multiplying the other entities' percentage of ownership interest at each level.

(c) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

(d) "Chain" means a group of two or more licensees that are controlled, as defined in this section, by the same persons or entities.

(e) "Control" means the ability to direct the operation or management of the applicant or licensee and includes the ability to exercise control through intermediary or subsidiary entities.

(f) "Department" means the State Department of Social Services.

(g) "Director" means the Director of Social Services.

(h) "Health-related services" mean services that shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.

(i) "Instrumental activities of daily living" means any of the following: housework, meals, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.

(j) "License" means a basic permit to operate a residential care facility for the elderly.

(k) "Parent organization" means an organization in control of another organization either directly or through one or more intermediaries.

(l) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.

(m) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.

(n) “Protective supervision” means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.

(o)

(1) “Residential care facility for the elderly” means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

(2) This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(p)

(1) “Residential care facility for the elderly” means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

(2) This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(q) “Sundowning” means a condition in which persons with cognitive impairment experience recurring confusion, disorientation, and increasing levels of agitation that coincide with the onset of late afternoon and early evening.

(r) “Supportive services” means resources available to the resident in the community that help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

SEC. 180.

Section 1596.8662 of the Health and Safety Code is amended to read:

1596.8662.

(a) The department shall do all of the following:

(1) Make information available to all licensed child day care providers, administrators, and employees of licensed child day care facilities regarding detecting and reporting child abuse and neglect.

(2) Provide training including statewide guidance on the responsibilities of a mandated reporter who is a licensed day care provider or an applicant for that license, administrator, or employee of a licensed child day care facility in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with *Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code*). The department shall provide the guidance using its free module or modules provided on the State Department of Social Services Internet Web site or as otherwise specified by the department. This guidance content shall include, but is not necessarily limited to, all of the following:

(A) Information on the identification of child abuse and neglect, including behavioral signs of abuse and neglect.

(B) Reporting requirements for child abuse and neglect, including guidelines on how to make a suspected child abuse report when suspected abuse or neglect takes place outside a child day care facility, or within a child day care facility, and to which enforcement agency or agencies a report is required to be made.

(C) Information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by *Section 11166 of the Penal Code*, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of one thousand dollars ($ 1,000), or by both that imprisonment and fine.

(D) Information that mandated reporting duties are individual and no supervisor or administrator may impede or inhibit reporting duties, and no person making a report shall be subject to any sanction for making the report, pursuant to paragraph (1) of subdivision (i) of *Section 11166 of the Penal Code*. A supervisor or administrator who impedes or inhibits the duties of a mandated reporter shall be subject to punishment pursuant to *Section 11166.01 of the Penal Code*.

(E) Information on childhood stages of development in order to help distinguish whether a child's behavior or physical symptoms are within range for his or her age and ability, or are signs of abuse or neglect.

(3) The department shall provide training, including information about child safety and maltreatment prevention using its free training module or modules specified in paragraph (2), or as otherwise specified by the department. This information shall include, but is not necessarily limited to, all of the following:

(A) Information on protective factors that may help prevent abuse, including dangers of shaking a child, safe sleep practices, psychological effects of repeated exposure to domestic violence, safe and age-appropriate forms of discipline, how to promote a child's social and emotional health, and how to support positive parent-child relationships.

(B) Information on recognizing risk factors that may lead to abuse, such as stress and social isolation, and available resources to which a family may be referred to help prevent child abuse and neglect.

(C) When to call for emergency medical attention to prevent further injury or death.

(D) Information on how a licensed child day care provider, administrator, or employee of a licensed child day care facility might communicate with a family before and after making a suspected child abuse report.

(4) The department shall comply with the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter 17.5 (commencing with *Section 7290) of the Government Code*), which includes, among alternative communication options, providing the same type of training materials in any non-English language spoken by a substantial number of members of the public whom the department serves.

(b)

(1) On or before March 30, 2018, a person who, on January 1, 2018, is a licensed child day care provider, administrator, or employee of a licensed child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a), and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.

(2) On and after January 1, 2018, a person who applies for a license to be a provider of a child day care facility shall complete the mandated reporter training provided pursuant to paragraphs

(2) and (3) of subdivision (a) as a precondition to licensure and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.

(3) On and after January 1, 2018, a person who becomes an administrator or employee of a licensed child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a) within the first 90 days that he or she is employed at the facility and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.

(4) The licensee of a licensed child day care facility shall obtain proof from an administrator or employee of the facility that the person has completed mandated reporter training in compliance with this subdivision.

(5) A licensed child day care provider, administrator, or employee of a licensed child day care facility who does not use the online training module provided by the department shall report to, and obtain approval from, the department regarding the training that person shall use in lieu of the online training module.

(c) Current proof of completion for each licensed child day care provider or applicant for that license, administrator, and employee of a licensed child day care facility shall be submitted to the department upon inspection of the child day care or upon request by the department.

(d)

(1) The department shall issue a notice of deficiency at the time of a site visit to the licensee of a licensed child day care facility who is not in compliance with this section. The licensee shall, at the time the department issues the notice of deficiency, develop a plan to correct the deficiency within 45 days.

(2) A deficiency under this subdivision is not subject to Section 1596.890.

(e) A licensed child day care provider or applicant for that license, an administrator, or employee of a licensed child care facility is exempt from the detecting and reporting child abuse training if he or she has limited English proficiency and training is not made available in his or her primary language.

(f) This section shall become operative on January 1, 2018.

SEC. 181.

Section 1760.2 of the Health and Safety Code is amended to read:

1760.2.

As used in this chapter, the following definitions shall apply:

(a)

(1) “Pediatric day health and respite care facility” means a facility that provides an organized program of therapeutic social and day health activities and services and limited 24-hour inpatient respite care to medically fragile children 21 years of age or younger, including terminally ill and technology-dependent patients, except as provided in paragraph (2) and Section 1763.4.

(2) An individual who is 22 years of age or older may continue to receive care in a pediatric day health and respite care facility if the facility receives approval from the state department for a Transitional Health Care Needs Optional Service Unit pursuant to Section 1763.4. A patient who previously received services from a pediatric day health and respite care facility, who is 22 years of age or older, and who satisfies the requirements of Section 1763.4, may also receive services in an optional service unit.

(b) "Medically fragile" means having an acute or chronic health problem that requires therapeutic intervention and skilled nursing care during all or part of the day. Medically fragile problems include, but are not limited to, HIV disease, severe lung disease requiring oxygen, severe lung disease requiring ventilator or tracheostomy care, complicated spina bifida, heart disease, malignancy, asthmatic exacerbations, cystic fibrosis exacerbations, neuromuscular disease, encephalopathies, and seizure disorders.

(c) "Technology-dependent patient" means a person who, from birth, has a chronic disability, requires the routine use of a specific medical device to compensate for the loss of use of a life-sustaining body function, and requires daily, ongoing care or monitoring by trained personnel.

(d) "Respite care" means day and 24-hour relief for the parent or guardian and care for the patient. 24-hour inpatient respite care includes, but is not limited to, 24-hour nursing care, meals, socialization, and developmentally appropriate activities. As used in this chapter, "24-hour inpatient respite care" is limited to no more than 30 intermittent or continuous whole calendar days per patient per calendar year.

(e) "Comprehensive case management" means locating, coordinating, and monitoring services for the eligible patient population and includes all of the following:

(1) Screening of patient referrals to identify those persons who can benefit from the available services.

(2) Comprehensive patient assessment to determine the services needed.

(3) Coordinating the development of an interdisciplinary comprehensive care plan.

(4) Determining individual case cost effectiveness and available sources of funding.

(5) Identifying and maximizing informal sources of care.

(6) Ongoing monitoring of service delivery to determine the optimum type, amount, and duration of services provided.

(f) "License" means a basic permit to operate a pediatric day health and respite care facility. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), "license" means a special permit authorizing the health facility to provide pediatric day health and respite care services as a separate program in a distinct part of the facility.

(g) "State department" means the State Department of Public Health.

SEC. 182.

Section 12640 of the Health and Safety Code is amended to read:

12640. In any case in which this chapter requires that a permit be obtained from the State Fire Marshal, or in any case in which the public agency having local jurisdiction requires pursuant to this chapter that a permit be obtained, a licensee shall possess a valid permit before performing any of the following:

(a) Manufacturing, importing, exporting, storing, possessing, or selling dangerous fireworks at wholesale.

(b) Manufacturing, importing, exporting, storing, or selling at wholesale or retail safe and sane fireworks or transporting safe and sane fireworks, except that a transportation permit shall not be required for safe and sane fireworks possessed by retail licensees.

(c) Manufacturing, importing, exporting, possessing, storing, transporting, using, or selling at wholesale or retail, those fireworks classified by the State Fire Marshal as agricultural and wildlife fireworks.

(d) Manufacturing, importing, exporting, possessing, storing, or selling at wholesale or retail, model rocket motors.

(e) Discharging dangerous fireworks at any place, including a public display.

(f) Using special effects.

SEC. 183.

Section 18080 of the Health and Safety Code is amended to read:

18080. Ownership registration and title to a manufactured home, mobilehome, commercial coach, or truck camper, or floating home subject to registration may be held by two or more coowners as follows:

(a) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant, the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(b) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered in the names of two or more persons as tenants in common. If the names of the tenants in common are separated by the word “and,” each tenant in common may transfer his or her individual interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home without the signature of the other tenant or tenants in common. However, the signature of each tenant in common shall be required to transfer full interest in the title to a new registered owner. If the names of the tenants in common are separated by the word “or,” any one of the tenants in common may transfer full interest in the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home to a new registered owner without the signature of the other tenant or tenants in common. The signature of each tenant in common is required in all cases to encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(c) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered as community property in the names of a husband and wife. The signature of each spouse shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(d) All manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes registered, on or before January 1, 1985, in the names of two or more persons as tenants in common, as provided in subdivision (b), shall be considered to be the same as if the names of the tenants in common were separated by the word “or,” as provided in subdivision (b).

SEC. 184.

Section 25150.7 of the Health and Safety Code is amended to read:

25150.7.

(a) The Legislature finds and declares that this section is intended to address the unique circumstances associated with the generation and management of treated wood waste. The Legislature further declares that this section does not set a precedent applicable to the management, including disposal, of other hazardous wastes.

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

(1) “Treated wood” means wood that has been treated with a chemical preservative for purposes of protecting the wood against attacks from insects, microorganisms, fungi, and other environmental conditions that can lead to decay of the wood, and the chemical preservative is

registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(2) "Wood preserving industry" means business concerns, other than retailers, that manufacture or sell treated wood products in the state.

(c) This section applies only to treated wood waste that, solely due to the presence of a preservative in the wood, is a hazardous waste and to which both of the following requirements apply:

(1) The treated wood waste is not subject to regulation as a hazardous waste under the federal act.

(2) Section 25143.1.5 does not apply to the treated wood waste.

(d)

(1) Notwithstanding Sections 25189.5 and 25201, treated wood waste shall be disposed of in either a class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, and that is regulated by waste discharge requirements issued pursuant to Division 7 (commencing with *Section 13000) of the Water Code* for discharges of designated waste, as defined in *Section 13173 of the Water Code*, or treated wood waste.

(2) A solid waste landfill that accepts treated wood waste shall comply with all of the following requirements:

(A) Manage the treated wood waste to prevent scavenging.

(B) Ensure that any management of the treated wood waste at the solid waste landfill before disposal, or in lieu of disposal, complies with the applicable requirements of this chapter, except as otherwise provided by regulations adopted pursuant to subdivision (f).

(C) If monitoring at the composite-lined portion of a landfill unit at which treated wood waste has been disposed of indicates a verified release, then treated wood waste shall not be discharged to that landfill unit until corrective action results in cessation of the release.

(e)

(1)

Each wholesaler and retailer of treated wood and treated wood-like products in this state shall conspicuously post information at or near the point of display or customer selection of treated wood and treated wood-like products used for fencing, decking, retaining walls, landscaping, outdoor structures, and similar uses. The information shall be provided to wholesalers and retailers by the wood preserving industry in 22-point type, or larger, and contain the following message:

Warning--Potential Danger

These products are treated with wood preservatives registered with the United States Environmental Protection Agency and the California Department of Pesticide Regulation and should only be used in compliance with the product labels.

This wood may contain chemicals classified by the State of California as hazardous and should be handled and disposed of with care. Check product label for specific preservative information and Proposition 65 warnings concerning presence of chemicals known to the State of California to cause cancer or birth defects.

Anyone working with treated wood, and anyone removing old treated wood, needs to take precautions to minimize exposure to themselves, children, pets, or wildlife, including:

* Avoid contact with skin. Wear gloves and long sleeved shirts when working with treated wood. Wash exposed areas thoroughly with mild soap and water after working with treated wood.;

* Wear a dust mask when machining any wood to reduce the inhalation of wood dusts. Avoid frequent or prolonged inhalation of sawdust from treated wood. Machining operations should be performed outdoors whenever possible to avoid indoor accumulations of airborne sawdust.;

* Wear appropriate eye protection to reduce the potential for eye injury from wood particles and flying debris during machining.;

* If preservative or sawdust accumulates on clothes, launder before reuse. Wash work clothes separately from other household clothing.;

* Promptly clean up and remove all sawdust and scraps and dispose of appropriately.;

* Do not use treated wood under circumstances where the preservative may become a component of food or animal feed.;

* Only use treated wood that's visibly clean and free from surface residue for patios, decks, or walkways.;

* Do not use treated wood where it may come in direct or indirect contact with public drinking water, except for uses involving incidental contact such as docks and bridges.;

* Do not use treated wood for mulch.;

* Do not burn treated wood. Preserved wood should not be burned in open fires, stoves, or fireplaces.

For further information, go to the Internet Web site *http://www.preservedwood.org* and download the free Treated Wood Guide mobile application.

In addition to the above listed precautions, treated wood waste shall be managed in compliance with applicable hazardous waste control laws.

(2) On or before July 1, 2005, the wood preserving industry shall, jointly and in consultation with the department, make information available to generators of treated wood waste, including fencing, decking, and landscape contractors, solid waste landfills, and transporters, that describes how to best handle, dispose of, and otherwise manage treated wood waste, through the use either of a toll-free telephone number, Internet Web site, information labeled on the treated wood, information accompanying the sale of the treated wood, or by mailing if the department determines that mailing is feasible and other methods of communication would not be as effective. A treated wood manufacturer or supplier to a wholesaler or retailer shall also provide the information with each shipment of treated wood products to a wholesaler or retailer, and the wood preserving industry shall provide it to fencing, decking, and landscaping contractors, by mail, using the Contractors' State License Board's available listings, and license application packages. The department may provide guidance to the wood preserving industry, to the extent resources permit.

(f)

(1) On or before January 1, 2007, the department, in consultation with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, and the Office of Environmental Health Hazard Assessment, and after consideration of any known health hazards associated with treated wood waste, shall adopt and may subsequently revise as necessary, regulations establishing management standards for treated wood waste as an alternative to the requirements specified in this chapter and the regulations adopted pursuant to this chapter.

(2) The regulations adopted pursuant to this subdivision shall, at a minimum, ensure all of the following:

(A) Treated wood waste is properly stored, treated, transported, tracked, disposed of, and otherwise managed to prevent, to the extent practical, releases of hazardous constituents to the environment, prevent scavenging, and prevent harmful exposure of people, including workers and children, aquatic life, and animals to hazardous chemical constituents of the treated wood waste.

(B) Treated wood waste is not reused, with or without treatment, except for a purpose that is consistent with the approved use of the preservative with which the wood has been treated. For purposes of this subparagraph, “approved uses” means a use approved at the time the treated wood waste is reused.

(C) Treated wood waste is managed in accordance with all applicable laws.

(D) Any size reduction of treated wood waste is conducted in a manner that prevents the uncontrolled release of hazardous constituents to the environment, and that conforms to applicable worker health and safety requirements.

(E) All sawdust and other particles generated during size reduction are captured and managed as treated wood waste.

(F) All employees involved in the acceptance, storage, transport, and other management of treated wood waste are trained in the safe and legal management of treated wood waste, including, but not limited to, procedures for identifying and segregating treated wood waste.

(g)

(1) A person managing treated wood waste who is subject to a requirement of this chapter, including a regulation adopted pursuant to this chapter, shall comply with either the alternative standard specified in the regulations adopted pursuant to subdivision (f) or with the requirements of this chapter.

(2) A person who is in compliance with the alternative standard specified in the regulations adopted pursuant to subdivision (f) is deemed to be in compliance with the requirement of this chapter for which the regulation is identified as being an alternative, and the department and any other entity authorized to enforce this chapter shall consider that person to be in compliance with that requirement of this chapter.

(h) All variances granted by the department before January 1, 2005, governing the management of treated wood waste are inoperative and have no further effect.

(i) This section does not limit the authority or responsibility of the department to adopt regulations under any other law.

(j) On or before January 1, 2018, the department shall prepare, post on its Internet Web site, and provide to the appropriate policy committees of the Legislature, a comprehensive report on the compliance with, and implementation of, this section. The report shall include, but not be limited to, all of the following:

(1) Data, and evaluation of that data, on the rates of compliance with this section and injuries associated with handling treated wood waste based on department inspections of treated wood waste generator sites and treated wood waste disposal facilities. To gather data to perform the required evaluation, the department shall do all of the following:

(A) The department shall inspect representative treated wood waste generator sites and treated wood waste disposal facilities, which shall not to be less than 25 percent of each.

(B) The department shall survey and otherwise seek information on how households are currently handling, transporting, and disposing of treated wood waste, including available information from household hazardous waste collection facilities, solid waste transfer facilities, solid waste disposal facility load check programs, and CUPAs.

(C) The department shall, by survey or otherwise, seek data to determine whether sufficient information and convenient collection and disposal options are available to household generators of treated wood waste.

(2) An evaluation of the adequacy of protective measures taken in tracking, handling, and disposing of treated wood waste.

(3) Data regarding the unauthorized disposal of treated wood waste at disposal facilities that have not been approved for that disposal.

(4) Conclusions regarding the handling of treated wood waste.

(5) Recommendations for changes to the handling of treated wood waste to ensure the protection of public health and the environment.

(k) This section shall become inoperative on December 31, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 185.

Section 25180 of the Health and Safety Code is amended to read:

25180.

(a)

(1) Except as provided in paragraph (2), the standards in this chapter and the regulations adopted by the department to implement this chapter shall be enforced by the department, and by any local health officer or any local public officer designated by the director.

(2) The standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, and the regulations adopted to implement the standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, shall be enforced by the department and one of the following:

(A) If there is no CUPA, the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(B) Within the jurisdiction of a CUPA, the unified program agencies, to the extent provided by this chapter and Sections 25404.1 and 25404.2. Within the jurisdiction of a CUPA, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(b)

(1) In addition to the persons specified in subdivision (a), any traffic officer, as defined by *Section 625 of the Vehicle Code*, and any peace officer specified in *Section 830.1 of the Penal Code*, may enforce Section 25160, subdivision (a) of Section 25163, and Sections 25250.18, 25250.19, and 25250.23. Traffic officers and peace officers are authorized representatives of the department for purposes of enforcing the provisions set forth in this subdivision.

(2) A peace officer specified in subdivision (a) of *Section 830.37 of the Penal Code* may, upon approval of the local district attorney, enforce the standards in this chapter and regulations adopted by the department to implement this chapter. A peace officer authorized to enforce

those standards and regulations pursuant to this paragraph shall perform these duties in coordination with the appropriate local officer or agency authorized to enforce this chapter pursuant to subdivision (a), and shall complete a training program which is equivalent to that required by the department for local officers and agencies authorized to enforce this chapter pursuant to subdivision (a).

(c) Notwithstanding any limitations in subdivision (b), a member of the California Highway Patrol may enforce Sections 25185, 25189, 25189.2, 25189.5, 25191, and 25195, and Article 6 (commencing with Section 25160) and Article 6.5 (commencing with Section 25167.1), as those provisions relate to the transportation of hazardous waste.

(d) In enforcing this chapter, including, but not limited to, the issuance of orders imposing administrative penalties, the referral of violations to prosecutors for civil or criminal prosecution, the settlement of cases, and the adoption of enforcement policies and standards related to those matters, the department and the local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) shall exercise their enforcement authority in such a manner that generators, transporters, and operators of storage, treatment, transfer, and disposal facilities are treated equally and consistently with regard to the same types of violations.

SEC. 186.

*Section 25250.15 of the Health and Safety Code*is amended to read:

25250.15.

(a) Any person operating a refuse removal vehicle or a curbside collection vehicle used to collect or transport used oil which has been generated as a household waste or as part of a curbside recycling program, as defined by the board, is exempt from the requirements of Section 25160, and subdivision (a) of Section 25163 of this code and Chapter 2.5 (commencing with Section 2500) of Division 2 of, Division 14.1 (commencing with Section 32000) of, and subdivision (g) of *Section 34500 of, the Vehicle Code*.

(b) Refuse removal and other curbside collection operations exempted under subdivision (a) are also exempt from permit requirements pursuant to Article 9 (commencing with Section 25200), if the storage location meets all applicable hazardous waste generator, container, and tank requirements, except for the generator fee requirement specified in subdivision (d).

(c) Used oil collected pursuant to this section shall be deemed to be generated by the storage location upon receipt.

(d) Used oil collected pursuant to this section is exempt from the generator fee imposed pursuant to Section 25205.5.

SEC. 187.

*Section 25270.6 of the Health and Safety Code*is amended to read:

25270.6.

(a)

(1) On or before January 1, annually, each owner or operator of a tank facility subject to this chapter shall file with the statewide information management system, a tank facility statement that shall identify the name and address of the tank facility, a contact person for the tank facility, the total storage capacity of the tank facility, and the location and contents of each petroleum storage tank that exceeds 10,000 gallons in storage capacity. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new tank facility statement if no new or used storage tanks have been added to the facility or if no significant modifications have been made. For purposes of this section, a significant modification includes,

but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.

(2) Notwithstanding paragraph (1), an owner or operator of a tank facility that submits a business plan, as defined in subdivision (d) of Section 25501, to the statewide information management system and that complies with Sections 25503, 25505, 25505.1, 25507, 25507.2, 25508, 25508.1, and 25508.2, satisfies the requirement in paragraph (1) to file a tank facility statement.

(b) Each owner or operator of a tank facility who is subject to the requirements of subdivision (a) shall annually pay a fee to the UPA, on or before a date specified by the UPA. The governing body of the UPA shall establish a fee, as part of the single fee system implemented pursuant to Section 25404.5, at a level sufficient to pay the necessary and reasonable costs incurred by the UPA in administering this chapter, including, but not limited to, inspections, enforcement, and administrative costs. The UPA shall also implement the fee accountability program established pursuant to subdivision (c) of Section 25404.5 and the regulations adopted to implement that program.

SEC. 188.

Section 32132.8 of the Health and Safety Code is amended to read:

32132.8.

(a) Notwithstanding Section 32132 or any other law, upon approval by the board of directors of the Mayers Memorial Hospital District, the design-build procedure described in Chapter 4 (commencing with *Section 22160) of Part 3 of Division 2 of the Public Contract Code* may be used to assign contracts for the construction of a building or improvements directly related to construction of a hospital or health facility building at the Mayers Memorial Hospital.

(b) For purposes of this section, all references in Chapter 4 (commencing with *Section 22160) of Part 3 of Division 2 of the Public Contract Code* to "local agency" mean the Mayers Memorial Hospital District and its board of directors.

(c) A hospital building project utilizing the design-build process authorized by subdivision (a) shall be reviewed and inspected in accordance with the standards and requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675) of Part 7 of Division 107).

SEC. 189.

Section 34191.3 of the Health and Safety Code is amended to read:

34191.3.

(a) Notwithstanding Section 34191.1, the requirements specified in subdivision (e) of Section 34177 and subdivision (a) of Section 34181 shall be suspended, except as those provisions apply to the transfers for governmental use, until the Department of Finance has approved a long-range property management plan pursuant to subdivision (b) of Section 34191.5, at which point the plan shall govern, and supersede all other provisions relating to, the disposition and use of the real property assets of the former redevelopment agency. If the department has not approved a plan by January 1, 2016, subdivision (e) of Section 34177 and subdivision (a) of Section 34181 shall be operative with respect to that successor agency.

(b) If the department has approved a successor agency's long-range property management plan prior to January 1, 2016, the successor agency may amend its long-range property management plan once, solely to allow for retention of real properties that constitute "parking facilities and lots dedicated solely to public parking" for governmental use pursuant to Section 34181. An

amendment to a successor agency's long-range property management plan under this subdivision shall be submitted to its oversight board for review and approval pursuant to Section 34179, and any such amendment shall be submitted to the department prior to July 1, 2016.

(c)

(1) Notwithstanding paragraph (2) of subdivision (a) of Section 34181, for purposes of amending a successor agency's long-range property management plan under subdivision (b), "parking facilities and lots dedicated solely to public parking" do not include properties that, as of the date of transfer pursuant to the amended long-range property management plan, generate revenues in excess of reasonable maintenance costs of the properties.

(2) Notwithstanding any other law, a city, county, city and county, or parking district shall not be required to reimburse or pay a successor agency for any funds spent on or before December 31, 2010, by a former redevelopment agency to design and construct a parking facility.

SEC. 190.

Section 44017 of the Health and Safety Code is amended to read:

44017.

(a) Except as otherwise provided in this section or Section 44017.1, a motor vehicle owner shall qualify for a repair cost waiver only after expending at least four hundred fifty dollars ($ 450) for repairs, including parts and labor.

(b) The department shall periodically revise the repair cost limit specified in subdivision (a) in accordance with changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(c) A repair cost limit shall not be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of being tampered with.

(d)

(1) A repair cost waiver shall not be issued if a motor vehicle has failed the visible smoke test created by the department pursuant to Section 44012.1, unless paragraph (2) applies, or the vehicle is owned by a low-income person, as defined in Section 44062.1, in which case the repair cost limit applicable pursuant to subdivision (b) of Section 44017.1 applies.

(2) By January 1, 2008, the department shall adopt regulations allowing a repair cost waiver, with the repair cost limit specified in subdivision (a), where a motor vehicle has failed the visible smoke test component of a smog check inspection, for individuals under economic hardship but who do not meet the definition of low-income person, as defined in Section 44062.1. The regulations shall make eligible for the waiver those individuals whose household means fall below the level necessary to achieve a modest standard of living without assistance from public programs. The department shall consult authoritative information sources including, but not limited to, the United States Census Bureau, the Department of Finance, and the California Budget Project.

SEC. 191.

Section 44559.4 of the Health and Safety Code, as amended by Section 1 of Chapter 274 of the Statutes of 2012, is amended to read:

44559.4.

(a) If a financial institution that is participating in the Capital Access Loan Program established pursuant to this article decides to enroll a qualified loan under the program in order to obtain the protection against loss provided by its loss reserve account, it shall notify the authority in writing on a form prescribed by the authority, within 15 days after the date on which the loan is made, of all of the following:

(1) The disbursement of the loan.

(2) The dollar amount of the loan enrolled.

(3) The interest rate applicable to, and the term of, the loan.

(4) The amount of the agreed upon premium.

(b) The executive director may authorize an additional five days for a financial institution to submit the written notification described in subdivision (a) to the authority on a loan-by-loan basis for a reason limited to conditions beyond the reasonable control of the financial institution.

(c) The financial institution may make a qualified loan to be enrolled under the program to an individual, or to a partnership or trust wholly owned or controlled by an individual, for the purpose of financing property that will be leased to a qualified business that is wholly owned by that individual. In that case, the property shall be treated as meeting the requirements of paragraph (1) of subdivision (i) of Section 44559.1.

(d) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 1 percent of the principal amount of the loan, but not more than 3 1 / 2 percent of the principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower. The financial institution may cover the cost of borrower payments to the loan loss reserve account.

(e) When depositing fees collected under subdivision (d) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following:

(1) If matching funds are not available under a federal capital access program or other source, the authority shall transfer to the loss reserve account an amount that is not less than the amount of the fees paid by the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount not less than 150 percent of the amount of the fees paid by the participating financial institution.

(2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by that federal program or other source. However, the total amount deposited into the loss reserve account shall not be less than the amount which would have been deposited in the absence of matching funds.

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

SEC. 192.

Section 44559.4 of the Health and Safety Code, as added by Section 2 of Chapter 274 of the Statutes of 2012, is amended to read:

44559.4.

(a) If a financial institution that is participating in the Capital Access Loan Program established pursuant to this article decides to enroll a qualified loan under the program in order to obtain the protection against loss

provided by its loss reserve account, it shall notify the authority in writing on a form prescribed by the authority, within 15 days after the date on which the loan is made, of all of the following:

(1) The disbursement of the loan.

(2) The dollar amount of the loan enrolled.

(3) The interest rate applicable to, and the term of, the loan.

(4) The amount of the agreed upon premium.

(b) The executive director may authorize an additional five days for a financial institution to submit the written notification described in subdivision (a) to the authority on a loan-by-loan basis for a reason limited to conditions beyond the reasonable control of the financial institution.

(c) The financial institution may make a qualified loan to be enrolled under the program to an individual, or to a partnership or trust wholly owned or controlled by an individual, for the purpose of financing property that will be leased to a qualified business that is wholly owned by that individual. In that case, the property shall be treated as meeting the requirements of paragraph (1) of subdivision (i) of Section 44559.1.

(d) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 2 percent of the principal amount of the loan, but not more than 3 1 / 2 percent of the principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower. The financial institution may cover the cost of borrower payments to the loan loss reserve account.

(e) When depositing fees collected under subdivision (d) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following:

(1) If matching funds are not available under a federal capital access program or other source, the authority shall transfer to the loss reserve account an amount that is not less than the amount of the fees paid by the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount not less than 150 percent of the amount of the fees paid by the participating financial institution.

(2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by that federal program or other source. However, the total amount deposited into the loss reserve account shall not be less than the amount which would have been deposited in the absence of matching funds.

(f) This section shall become operative on April 1, 2017.

SEC. 193.

Section 101853.1 of the Health and Safety Code is amended to read:

101853.1.

(a) In exercising its powers to employ personnel, the authority shall implement, and the board of supervisors shall adopt, a personnel transition plan. The personnel transition plan shall require all of the following:

(1) Ongoing communication to employees and recognized employee organizations regarding the impact of the transition on existing medical center, county, and other health care facility employees and employee classifications.

(2) Meeting and conferring with representatives of affected bargaining unit employees on both of the following issues:

(A) A timeframe for which the transfer of personnel shall occur.

(B) Specified periods of time during which county or medical center employees affected by the establishment of the authority may elect to be considered for appointment and exercise reinstatement rights, if applicable, to funded, equivalent, vacant county positions for which they are qualified and eligible. An employee who first elects to remain with the county may subsequently seek reinstatement with the authority within 30 days of the election to remain with the county and shall be subject to the requirements of this article.

(3) Acknowledgment that the authority, to the extent permitted by federal and state law, and consistent with paragraph (3) of subdivision (d), shall be bound by the terms of those memoranda of understanding executed between the county and its exclusive employee representatives that are in effect on the date of the transfer of control of the medical center to the authority. Subsequent memoranda of understanding with exclusive employee representatives shall be subject to approval only by the board of governors.

(4) Communication to the Board of Retirement of the Kern County Employees' Retirement Association or other retirement plan of any personnel transition plan, memoranda of understanding, or other arrangements that are related to the participation of the authority's employees or the addition of new employees in the retirement plan.

(b) Implementation of this chapter shall not be a cause for the modification of the medical center or county employment benefits. Employees of the medical center or county on the date of transfer, who become authority employees, shall retain their existing or equivalent classifications and job descriptions upon transfer to the authority, comparable pension benefits (if permissible pursuant to relevant plan terms), and their existing salaries and other benefits that include, but are not limited to, accrued and unused vacation, sick leave, personal leave, health care, retiree health benefits, and deferred compensation plans. The transfer of an employee from the medical center or county shall not constitute a termination of employment for purposes of *Section 227.3 of the Labor Code*, or employee benefit plans and arrangements maintained by the medical center or county, except as otherwise provided in the enabling ordinance or personnel transition plan, nor shall it be counted as a break in uninterrupted employment for purposes of *Section 31641 of the Government Code* with respect to the Kern County Employees' Retirement Association, or state service for purposes of the Public Employees' Retirement System (Part 3 (commencing with *Section 20000) of Division 5 of Title 2 of the Government Code*).

(c) Subject to applicable state law, the authority shall recognize the exclusive employee representatives of those authority employees who are transferred from the county or medical center to the authority pursuant to this chapter.

(d) In order to stabilize labor and employment relations and provide continuity of care and services to the people of the county, and notwithstanding any other law, the authority shall do all of the following for a period of 24 months after the effective date of the transfer of control of the medical center to the authority:

(1) Continue to recognize each exclusive employee representative of each bargaining unit.

(2) Continue to provide the same level of employee benefits to authority employees, whether the obligation to provide those benefits arises out of a memorandum of understanding, or other agreement or law.

(3) Extend and continue to be bound by any existing memoranda of understanding covering the terms and conditions of employment for employees of the authority, including the level of wages and benefits, and any county rules, ordinances, or policies specifically identified and incorporated by reference in a memoranda of understanding for 24 months or through the term

of the memorandum of understanding, whichever is longer, unless modified by mutual agreement with each of the exclusive employee representatives. The authority shall continue to provide those pension benefits specified in any memoranda of agreement as long as doing so does not conflict with any Kern County Employees' Retirement Association plan provisions, or federal or state law including the County Employees Retirement Law of 1937 (Chapter 3 (commencing with *Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code* and the federal Internal Revenue Code). If a memoranda of understanding is expired on the date of the transfer of control of the medical center, then the authority shall continue to be bound by the terms and conditions of the most recent memoranda of understanding, unless modified by a mutual agreement with each of the exclusive employee representatives, and the benefits and wages of transferred employees shall be retained consistent with subdivision (b).

(4) Meet and confer with the exclusive employee representatives to develop processes and procedures to address employee disciplinary action taken against permanent employees. If the authority terminates, suspends, demotes, or reduces the pay of a permanent employee for disciplinary reasons, those actions shall only be for cause consistent with state law, and an employee shall be afforded applicable due process protections granted to public employees under state law. Permanent employees laid off by the authority within six months of the date of the transfer of control of the medical center shall remain on the county reemployment list for two years. Inclusion on the county reemployment list is not a guarantee of reemployment. For the purposes of this paragraph, the term "permanent employees" excludes probationary employees, temporary employees, seasonal employees, provisional employees, extra help employees, and per diem employees.

(5) To the extent layoffs occur, and provided that all other previously agreed upon factors are equal, ensure that seniority shall prevail. The authority shall meet and confer with the exclusive employee representatives to address layoff procedures and the manner in which, and the extent to which, seniority shall be measured for employees who transfer from the medical center or county.

(e) Permanent employees of the medical center or county on the effective date of the transfer of control of the medical center to the authority, shall be deemed qualified for employment in equivalent positions at the authority, and no other qualifications shall be required except as otherwise required by state or federal law. Probationary employees on the effective date of the transfer, as set forth in this paragraph, shall retain their probationary status and rights and shall not be required to serve a new probationary period or extend their probationary period by reason of the transfer. To the extent possible, employees who transfer to equivalent positions at the authority shall retain their existing classifications and job descriptions, but if there is a dispute over this issue, the authority agrees to meet and confer with the exclusive employee representatives of the transferred employees.

(f) Employees who transfer from the medical center or county to the authority shall retain the seniority they earned at the medical center or county and any benefits or privileges based on the seniority.

(g) Notwithstanding any other law, employees of the authority may participate in the Kern County Employees' Retirement Association, operated pursuant to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with *Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code*) as set forth below. However, the authority and employees of the authority, or certain designated parts thereof, shall not participate in the Kern County Employees' Retirement Association if the board of retirement, in its sole discretion, determines that their participation could jeopardize the Kern County Employees' Retirement Association's tax-qualified or governmental plan status under federal law, or if a contract or related contract amendment proposed by the authority contains any benefit provisions that are not specifically authorized by Chapters 3 (commencing with Section 31450) and 3.9 (commencing with *Section 31899) of Part 3 of Division 4 of Title 3 of the Government Code* or Article 4 (commencing with *Section 7522) of Chapter 21 of*

Division 7 of Title 1 of the Government Code, and that the board determines would adversely affect the administration of the system. There shall not be any individual employee elections regarding participation in the Kern County Employees' Retirement Association or other retirement plans except to the extent such retirement plans provide for elective employee salary deferral contributions in accordance with federal Internal Revenue Code rules.

(1) Employees transferred from the county or medical center to the authority who are subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall continue to be a member of the Kern County Employees' Retirement Association, retaining service credit earned to the date of transfer, to the extent provided for in the applicable memorandum of understanding.

(2) Employees transferred from the county or medical center to the authority who are subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were not members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall subsequently become a member of the Kern County Employees' Retirement Association only to the extent provided for in the applicable memorandum of understanding.

(3) Employees transferred from the county or medical center to the authority who are not subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall continue to be a member of the Kern County Employees' Retirement Association, retaining service credit earned to the date of transfer, as provided in the enabling ordinance or the personnel transition plan.

(4) Employees transferred from the county or medical center to the authority who are not subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were not members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall subsequently become a member of the Kern County Employees' Retirement Association only to the extent provided in the enabling ordinance or the personnel transition plan.

(5) Employees hired by the authority on or after the effective date of the transfer of control of the medical center shall become a member of the Kern County Employees' Retirement Association only to the extent provided in the enabling ordinance or personnel transition plan described in subdivision (a), or, if subject to a memorandum of understanding between the authority and an exclusive employee representative as described in paragraphs (2) and (3) of subdivision (d), to the extent provided for in the applicable memorandum of understanding.

(6)

(A) Notwithstanding any other law, for purposes of California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with *Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code*), an individual who was employed by the county or the medical center when it was a constituent department of the county, and is a member of the Kern County Employees' Retirement Association or the Public Employees' Retirement System, as set forth in Part 3 (commencing with *Section 20000) of Division 5 of Title 2 of the Government Code* or a member prior to January 1, 2013, and who transfers, directly or after a break in service of less than six months, to the authority, in which the individual continues to be a member of either the Kern County Employees' Retirement Association or the Public Employees' Retirement System, as applicable, shall not be deemed to be a new employee or a new member within the meaning of *Section 7522.04 of the Government*

Code, and shall continue to be subject, immediately after the transfer, to the same defined benefit formula, as defined in Section 7522.04 of the Government Code, and plan of replacement benefits offered by the county pursuant to Section 31899.4 of the Government Code and the Kern County Replacement Benefits Plan for retirement benefits limited by Section 415 of Title 26 of the United States Code.

(B) For purposes of subdivision (c) of Section 7522.43 of the Government Code, the authority shall be treated as a public employer that offered a plan of replacement benefits prior to January 1, 2013. The county's plan of replacement benefits that was in effect prior to January 1, 2013, is deemed to also be the authority's replacement plan for the sole purpose of allowing the authority to continue to offer the plan of replacement benefits, immediately after the transfer, for Kern County Employees' Retirement Association members who meet both of the following requirements, and the qualifying survivors or beneficiaries of those members:

(i) The employee was employed as of January 1, 2013, by the county or the medical center when it was a constituent department of the county.

(ii) The employee is part of a member group to which the county offered a plan of replacement benefits prior to January 1, 2013.

(7)

(A) Notwithstanding any other law, legacy employees shall be deemed to be county employees for purposes of participation in a benefit plan administered by the Kern County Employees' Retirement Association, but only for that purpose, and shall not be employees of the county for any other purpose. Upon the transfer of control of the medical center and thereafter, the county shall include legacy employees in a special county employee group for which the county has primary financial responsibility to fund all employer contributions that, together with contributions by employees and earnings thereon, are necessary to fund all benefits for legacy employees administered by the Kern County Employees' Retirement Association, notwithstanding the fact that, following the transfer of control of the medical center, the authority shall commence making periodic employer contributions for legacy employees. In the event the authority fails to make required employer contributions for legacy employees when due and after demand from the Kern County Employees' Retirement Association, the county, after receipt of notice and demand from the Kern County Employees' Retirement Association, shall be obligated to make those contributions in place of the authority.

(B) The authority shall be primarily responsible for any employer contributions that, together with contributions by employees and earnings thereon, are necessary to fund all benefits for new employees. In the event the authority fails to make required contributions for new employees, the county shall be obligated to make the required contributions after receipt of notice and demand from the Kern County Employees' Retirement Association. The county shall maintain this obligation for new employees until the authority demonstrates, and the Kern County Employees' Retirement Association's Board of Retirement determines, that the authority is sufficiently capable financially to fully assume the obligation to make all employer contributions for new employees, based upon the standard of financial capability approved by the Kern County Employees' Retirement Association and the county in a plan of participation, and incorporated within a written agreement between the county and the authority. In the event the authority fails to make required contributions for any new employees due to the authority's dissolution or bankruptcy, the county shall be obligated to make the required contributions after receipt of notice and demand from the Kern County Employees' Retirement Association.

(h) This chapter does not prohibit the authority from contracting with the Public Employees' Retirement System, in accordance with the requirements of Section 20508 and any other

applicable provisions of Part 3 (commencing with *Section 20000) of Division 5 of Title 2 of the Government Code*, for the purpose of providing employee participation in that system, or from establishing an alternative or supplemental retirement system or arrangement, including, but not limited to, deferred compensation arrangements, to the extent permitted by law and subject to any applicable agreement between the authority and the exclusive employee representatives, and as provided in the enabling ordinance or the personnel transition plan. Notwithstanding any other law, the authority and employees of the authority shall not participate in the Public Employees' Retirement System if the Board of Administration of the Public Employees' Retirement System, in its sole discretion, determines that their participation could jeopardize the Public Employees' Retirement System's tax-qualified or governmental plan status under federal law, or if a contract or related contract amendment proposed by the authority contains any benefit provisions that are not specifically authorized by Part 3 (commencing with *Section 20000) of Division 5 of Title 2 of the Government Code*, and that the board determines would adversely affect the administration of the system.

(i) Provided that this is not inconsistent with anything in this chapter, this chapter does not prohibit the authority from determining the number of employees, the number of full-time equivalent positions, job descriptions, the nature and extent of classified employment positions, and salaries of employees.

SEC. 194.

Section 110424 of the Health and Safety Code is amended and renumbered to read:

110422.5.

Violation of this article by any person, as defined in Section 109995, shall constitute an infraction, punishable by a fine not to exceed the following:

(a) One thousand dollars ($ 1,000) for the first violation.

(b) Two thousand dollars ($ 2,000) for the second violation.

(c) Five thousand dollars ($ 5,000) for the third and each subsequent violation.

SEC. 195.

*Section 112895 of the Health and Safety Code*is amended to read:

112895. (a) It is unlawful to manufacture, sell, offer for sale, give away, or to possess imitation olive oil in California.

(b) This section does not prohibit the blending of olive oil with other edible oils, if the blend is not labeled as olive oil or imitation olive oil, is clearly labeled as a blended vegetable oil, and if the contents and proportions of the blend are prominently displayed on the container's label, or if the oil is a flavored olive oil.

(c) If any olive oil is produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label "California Olive Oil," or uses words of similar import that indicate that California is the source of the oil, 100 percent of that oil shall be derived from olives grown in California.

(d) Olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label that it is from a specific region of California shall be made of oil at least 85 percent of which, by weight, is derived from olives grown in the specified region.

(e) Olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label that it is from a specific estate in California shall be made of oil at least 95 percent of which, by weight, is derived from olives grown on the specified estate.

(f) Olive-pomace oil shall not be labeled as olive oil.

SEC. 196.

Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen's markets.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in *Section 23356.1 of the Business and Professions Code*, or premises set aside by a beer manufacturer, as defined in *Section 25000.2 of the Business and Professions Code*, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment, as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12)

(A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

SEC. 197.

*Section 117945 of the Health and Safety Code*is amended to read:

117945. (a) A small quantity generator who is not required to register pursuant to this chapter shall maintain on file in its office all of the following:

(1) An information document stating how the generator contains, stores, treats, and disposes of any medical waste generated through any act or process of the generator.

(2) Records required by the United States Postal Service of any medical waste shipped offsite for treatment and disposal. The small quantity generator shall maintain, or have available electronically at the facility or from the medical waste hauler or common carrier, these records, for not less than three years.

(b) Documentation shall be made available to the enforcement agency onsite.

SEC. 198.

*Section 118330 of the Health and Safety Code*is amended to read:

118330. (a) Whenever the enforcement agency determines that a violation or threatened violation of this part or the regulations adopted pursuant to this part has resulted, or is likely to result, in a release of medical waste into the environment, the agency may issue an order to the responsible

person specifying a schedule for compliance or imposing an administrative penalty of not more than five thousand dollars ($ 5,000) per violation. A person who, after notice and an opportunity for hearing, violates an order issued pursuant to this section is guilty of a misdemeanor.

(1) If the department is the enforcement agency, the department shall provide notice, issue the order, and conduct the administrative hearing pursuant to subdivisions (d) and (f).

(2) If the department is not the enforcement agency, the provisions of subdivisions (b) to (e), inclusive, apply.

(b)

(1) In establishing the amount of the administrative penalty and ordering that the violation be corrected pursuant to this section, the enforcement agency shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the penalty, and the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.

(2) If the amount of the administrative penalty is set after the person is served with the order pursuant to subdivision (c) or after the order becomes final, the person may request a hearing to dispute the amount of the administrative penalty and is entitled to the same process as provided in subdivision (c), whether or not the person disputed the facts of the violation through that process.

(3) An administrative penalty assessed pursuant to this section shall be in addition to any other penalties or sanctions imposed by law.

(c)

(1) An order issued pursuant to this section shall be served by personal service or certified mail and shall inform the person served of the right to a hearing.

(2) A person served with an order pursuant to paragraph (1) and who has been unable to resolve the violation with the enforcement agency may, within 15 days after service of the order, request a hearing by filing with the enforcement agency a notice of defense. The notice shall be filed with the agency that issued the order. A notice of defense shall be deemed filed within the 15-day period if it is postmarked within that 15-day period. If no notice of defense is filed within the 15-day time period, the order shall become final.

(3) Except as otherwise provided in paragraph (4), a person requesting a hearing on an order issued pursuant to this section may select the hearing officer specified in either subparagraph (A) or (B) of paragraph (4) in the notice of defense filed with the enforcement agency pursuant to paragraph (2). If a notice of defense is filed, but no hearing officer is selected, the enforcement agency may select the hearing officer.

(4) Within 90 days of receipt of the notice of defense by the enforcement agency, the hearing shall be scheduled using one of the following:

(A) An administrative law judge of the Office of Administrative Hearings of the Department of General Services, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with *Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code*, and the enforcement agency shall have all the authority granted to an agency by those provisions.

(B)

(i) A hearing officer designated by the enforcement agency, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with *Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code*, and the enforcement agency shall

have all the authority granted to an agency by those provisions. When a hearing is conducted by an enforcement agency hearing officer pursuant to this clause, the enforcement agency shall issue a decision within 60 days after the hearing is conducted. Each hearing officer designated by an enforcement agency shall meet the requirements of *Section 11425.30 of the Government Code* and any other applicable restriction.

(ii) An enforcement agency, or a person requesting a hearing on an order issued by an enforcement agency, may select the hearing process specified in this subparagraph in a notice of defense filed pursuant to paragraph (2) only if the enforcement agency has selected a designated hearing officer and established a program for conducting a hearing in accordance with this paragraph.

(5) The hearing decision issued pursuant to this subdivision shall be effective and final upon issuance by the enforcement agency. A copy of the decision shall be served by personal service or by certified mail upon the party served with the order, or their representative, if any.

(6) The person has a right to appeal the hearing decision if, within 30 days of the date of receipt of the final decision pursuant to paragraph (5), the person files a written notice of appeal with the enforcement agency. The appeal shall be in accordance with the Administrative Procedure Act (Chapters 4.5 (commencing with Section 11400) and 5 (commencing with *Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code*).

(7) A decision issued pursuant to paragraph (6) may be reviewed by a court pursuant to *Section 11523 of the Government Code*. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the enforcement agency if the decision is based upon substantial evidence in the record as a whole. The filing of a petition for writ of mandate shall not stay an action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(d) A provision of an order issued under this section, except the imposition of an administrative penalty, shall take effect upon issuance of the order by the enforcement agency if the enforcement agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial danger to the public health or safety or the environment. A request for a hearing or appeal, as provided in subdivision (c) or (f) shall not stay the effect of that provision of the order pending a hearing decision. If the enforcement agency determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the enforcement agency. A request for a hearing shall not stay the effect of the order as a whole pending a hearing decision.

(e) The enforcement agency shall consult with the district attorney, county counsel, or city attorney on the development of policies to be followed in exercising the authority delegated pursuant to this section as it relates to the authority of the enforcement agency to issue orders.

(f)

(1) The department shall serve an order issued pursuant to this section by personal service or certified mail and shall inform the person served of the right to a hearing.

(2) A person served with an order pursuant to paragraph (1) may appeal the order by sending a written request for hearing to the department within 20 days after service of the order. If a request for hearing is not made within the 20-day time period, the order shall

become final. Payments of any administrative penalty shall be made within 30 days of the date the order becomes final.

(3) Any hearings conducted by the department pursuant to this section shall be conducted pursuant to the procedures specified in Section 131071.

SEC. 199.

Section 120375 of the Health and Safety Code is amended to read:

120375. (a) The governing authority of each school or institution included in Section 120335 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the department he or she has been fully immunized against all of the diseases listed in Section 120335, and immunizations received after entry shall be added to the pupil's immunization record.

(b) The governing authority of each school or institution included in Section 120335 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the regulations of the department, unless the pupil is exempted under Section 120370, until that pupil has been fully immunized against all of the diseases listed in Section 120335.

(c) The governing authority shall file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the department and the local health department at times and on forms prescribed by the department. As provided in paragraph (4) of subdivision (a) of *Section 49076 of the Education Code*, the local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 120335 in order to determine immunization deficiencies.

(d) The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of any school or other institution may permit any licensed physician or any qualified registered nurse to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

SEC. 200.

Section 129160 of the Health and Safety Code is amended to read:

129160. (a) (1) All debentures issued under this chapter to any lender or bondholder shall be executed in the name of the fund as obligor, shall be signed by the Treasurer, and shall be negotiable. Pursuant to Sections 129125 and 129130, all debentures shall be dated as of the date of the institution of foreclosure proceedings or as of the date of the acquisition of the property after default by other than foreclosure, or as of another date as the office, in its discretion, may establish.

(2) The debentures shall bear interest from that date at a rate equal to the insured loan or bonds, and shall be payable on a payment schedule identical with payments on the insured loan or bonds. The Treasurer shall take appropriate steps to the extent feasible to provide that interest on the debentures is exempt from federal income taxation under *Section 103 of the Internal Revenue Code* to the extent interest on the insured loan or bonds is exempt from federal income taxation under *Section 103 of the Internal Revenue Code* on the date the insured loan or bonds is

exchanged for debentures. All debentures shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the state or local taxing agencies, shall be paid out of the fund, which shall be primarily liable therefor, and shall be, pursuant to *Section 4 of Article XVI of the California Constitution*, fully and unconditionally guaranteed as to principal and interest by the State of California, which guaranty shall be expressed on the face of the debentures.

(3) If the fund fails to pay upon demand, when due, the principal of, or interest on, any debentures issued under this chapter, the Treasurer shall pay to the holders the amount thereof, which amount, notwithstanding *Section 13340 of the Government Code*, is hereby continuously appropriated from the General Fund, without regard to fiscal years, and thereupon to the extent of the amount so paid the Treasurer shall succeed to all the rights of the holders of the debentures. The fund shall be liable for repayment to the General Fund of any money paid from the General Fund pursuant to this section in accordance with procedures jointly established by the Treasurer and the office.

(b) Any debenture issued under this article shall be paid on a par with general obligation bonds issued by the state.

SEC. 201.

*Section 38.6 of the Insurance Code*is amended to read:

38.6.

(a)

(1) Any written record required to be given or mailed to any person by a licensee relating to the business of life insurance, as defined in Section 101 of this code may, if not excluded by subdivision (b) or (c) of *Section 1633.3 of the Civil Code*, be provided by electronic transmission pursuant to Title 2.5 (commencing with *Section 1633.1) of Part 2 of Division 3 of the Civil Code*, if each party has agreed to conduct the transaction by electronic means pursuant to *Section 1633.5 of the Civil Code*, and if the licensee complies with the provisions of this section. A valid electronic signature shall be sufficient for any provision of law requiring a written signature.

(2) For purposes of this section, the definitions set forth in *Section 1633.2 of the Civil Code* apply. The term “licensee” means an insurer, agent, broker, or any other person who is required to be licensed by the department.

(3) Notwithstanding subdivision (l) of *Section 1633.2 of the Civil Code*, for purposes of this section, “person” includes, but is not limited to, the policy owner, policyholder, applicant, insured, or assignee or designee of an insured.

(b) In order to transmit a life insurance record electronically, a licensee shall comply with all of the following:

(1) A licensee, or licensee’s representative, acquires the consent of the person to opt in to receive the record by electronic transmission, and the person has not withdrawn that consent, prior to providing the record by electronic transmission. A person’s consent may be acquired verbally, in writing, or electronically. If consent is acquired verbally, the licensee shall confirm consent in writing or electronically. The licensee shall retain a record of the person’s consent to receive the record by electronic transmission with the policy information so that it is retrievable upon request by the department while the policy is in force and for five years thereafter.

(2) A licensee discloses, in writing or electronically, to the person all of the following:

(A) The opt in to receive the record by electronic transmission is voluntary.

(B) That the person may opt out of receiving the record by electronic transmission at any time, and the process or system for the person to opt out.

(C) A description of the record that the person will receive by electronic transmission.

(D) The process or system to report a change or correction in the person's email address.

(E) The licensee's contact information, which includes, but is not limited to, a toll-free number or the licensee's Internet Web site address.

(3) The opt-in consent disclosure required by paragraph (2) may be set forth in the application or in a separate document that is part of the policy approved by the commissioner and shall be bolded or otherwise set forth in a conspicuous manner. The person's signature shall be set forth immediately below the opt-in consent disclosure. If the licensee seeks consent at any time prior to the completion of the application, consent and signature shall be obtained before the application is completed. If the person has not opted in at the time the application is completed, the licensee may receive the opt-in consent at any time thereafter, pursuant to the same opt-in requirements that apply at the time of the application. The licensee shall retain a copy of the signed opt-in consent disclosure with the policy information so that each is retrievable upon request by the department while the policy is in force and for five years thereafter.

(4) The email address of the person who has consented to electronic transmission shall be set forth on the consent disclosure. In addition, if the person who consented receives an annual statement, the email address of the person who has consented shall be set forth on that record.

(5) The licensee shall annually provide one free printed copy of any record described in this subdivision upon request by the person.

(6) If a provision of this code requires a licensee to transmit a record by first class mail, regular mail, does not specify a method of delivery, or is a record that is required to be provided pursuant to Article 6.6 (commencing with Section 791), and if the licensee is not otherwise prohibited from transmitting the record electronically under subdivision (b) of *Section 1633.8 of the Civil Code*, then the record may be transmitted by electronic transmission if the licensee complies with all of the requirements of *Sections 1633.15 and 1633.16 of the Civil Code*.

(7) Notwithstanding subdivision (b) of *Section 1633.8 of the Civil Code*, if a provision of this code requires a licensee to transmit a record by return receipt, registered mail, certified mail, signed written receipt of delivery, or other method of delivery evidencing actual receipt by the person, and if the licensee is not otherwise prohibited from transmitting the record electronically under *Section 1633.3 of the Civil Code* and the provisions of this section, then the licensee shall maintain a process or system that demonstrates proof of delivery and actual receipt of the record by the person consistent with this paragraph. The licensee shall document and retain information demonstrating delivery and actual receipt so that it is retrievable, upon request, by the department at least five years after the policy is no longer in force. The record provided by electronic transmission shall be treated as if actually received if the licensee delivers the record to the person in compliance with applicable statutory delivery deadlines. A licensee may demonstrate actual delivery and receipt by any of the following:

(A) The person acknowledges receipt of the electronic transmission of the record by returning an electronic receipt or by executing an electronic signature.

(B) The record is made part of, or attached to, an email sent to the email address designated by the person, and there is a confirmation receipt, or some other evidence that the person received the email in his or her email account and opened the email.

(C) The record is posted on the licensee's secure Internet Web site, and there is evidence demonstrating that the person logged onto the licensee's secure Internet Web site and downloaded, printed, or otherwise acknowledged receipt of the record.

(D) If a licensee is unable to demonstrate actual delivery and receipt pursuant to this paragraph, the licensee shall resend the record by regular mail to the person in the manner originally specified by the underlying provision of this code.

(8) Notwithstanding any other law, a notice of lapse, nonrenewal, cancellation, or termination of any product subject to this section may be transmitted electronically if the licensee demonstrates proof of delivery as set forth in paragraph (7) and complies with the other provisions in this section.

(9) If the record is not delivered directly to the electronic address designated by the person but placed at an electronic address accessible to the person, a licensee shall notify the person in plain, clear, and conspicuous language at the electronic address designated by the person that describes the record, informs that person that it is available at another location, and provides instructions to the person as to how to obtain the record.

(10)

(A) Upon a licensee receiving information indicating that the record sent by electronic transmission was not received by the person, the licensee shall, within five business days, comply with either clause (i) or (ii):

(i) Contact the person to confirm or update the person's email address and resend the record by electronic transmission. If the licensee elects to resend the record by electronic transmission, the licensee shall demonstrate the transmission was received by the person, pursuant to paragraph (6), (7), or (8). If the licensee is unable to confirm or update the person's email address, the licensee shall resend the record by regular mail to the licensee at the address shown on the policy, or, if the underlying statute requires delivery in a specified manner, send the record in that specified manner.

(ii) Resend the record initially provided by electronic transmission by regular mail to the insured at the address shown on the policy, or, if the underlying statute requires delivery in a specified manner, send the record in that specified manner.

(B) If the licensee sends the first electronic record within the time period required by law and the licensee complies with both paragraph (5) and subparagraph (A) of this paragraph, the record sent pursuant to clause (i) or (ii) of subparagraph (A) shall be treated as if mailed in compliance with the applicable statutory regular mail delivery deadlines.

(11) The licensee shall not charge any person who declines to opt in to receive a record through electronic transmission from receiving a record electronically. The licensee shall not provide a discount or an incentive to any person to opt in to receive electronic records.

(12) The licensee shall verify a person's email address via paper writing sent by regular mail when more than 12 months have elapsed since the license's last electronic communication.

(c) An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature shall not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if all of the following are met:

(1) The insurance agent or broker has not engaged in negligent, reckless, or intentional tortious conduct.

(2) The insurance agent or broker was not involved in the development or establishment of the electronic procedures.

(3) The insurance agent or broker did not deviate from the electronic procedures.

(d) On or before January 1, 2020, the commissioner shall submit a report to the Governor and to the committees of the Senate and Assembly having jurisdiction over insurance and the judiciary, regarding the impact and implementation of the authorization of the electronic transmission of certain insurance renewal offers, notices, or disclosures as authorized by this section. The report shall include input from insurers, consumers, and consumer organizations, and shall include an assessment of the department's experience pertaining to the authorization of the electronic transmission of insurance renewals as authorized by this section.

(e) Notwithstanding paragraph (4) of subdivision (b) of *Section 1633.3 of the Civil Code*, for any policy of life insurance, as defined in Section 101, any statutory requirement for a separate acknowledgment, signature, or initial, which is not expressly prohibited by subdivision (c) of *Section 1633.3 of the Civil Code*, may be transacted using an electronic signature, or by electronic transaction, subject to all applicable provisions of this section.

(f) The department may suspend a licensee from providing records by electronic transmission if there is a pattern or practices that demonstrate the licensee has failed to comply with the requirements of this section. A licensee may appeal the suspension and resume its electronic transmission of records upon communication from the department that the changes the licensee made to its process or system to comply with the requirements of this section are satisfactory.

(g) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 202.

*Section 10082.5 of the Insurance Code*is amended to read:

10082.5.

(a) If an insurer subject to this chapter charges an additional earthquake insurance premium or deductible because a dwelling fails to comply with paragraph (1), (2), or (3) and the dwelling is subsequently brought into compliance with any one of these paragraphs, then the additional premium or deductible attributed to noncompliance shall not be charged.

(1) Compliance with *Section 19215 of the Health and Safety Code* for the bracing, anchoring, or strapping of all water heaters to resist falling or horizontal displacement due to earthquake motion.

(2) Compliance with the foundation anchor bolt requirements of the 2007 edition of the California Building Standards Code as specified in Title 24 of the California Code of Regulations, or a successor edition of that code, or with any local government modifications to those requirements.

(3) Compliance with the bracing requirements for cripple walls of the 2007 edition of the California Building Standards Code as specified in Title 24 of the California Code of Regulations, or a successor edition of that code, or with any local government modifications to those requirements.

(b) A copy of the approved inspection record for the building permit for work performed pursuant to this section shall be submitted by the insured to the insurer in order to verify that retrofits performed pursuant to this section have been performed. The additional premium or deductible paid shall be refunded to the insured and prorated as of the date the approved inspection record is received by the insurer.

SEC. 203.

Section 10112.27 of the Insurance Code, as added by Section 4 of Chapter 648 of the Statutes of 2015, is amended to read:

10112.27.

(a) An individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2017, shall, at a minimum, include coverage for essential health benefits pursuant to PPACA and as outlined in this section. This section shall exclusively govern what benefits a health insurer must cover as essential health benefits. For purposes of this section, “essential health benefits” means all of the following:

(1) Health benefits within the categories identified in Section 1302(b) of PPACA: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care.

(2)

(A) The health benefits covered by the Kaiser Foundation Health Plan Small Group HMO 30 plan (federal health product identification number 40513CA035) as this plan was offered during the first quarter of 2014, as follows, regardless of whether the benefits are specifically referenced in the plan contract or evidence of coverage for that plan:

(i) Medically necessary basic health care services, as defined in subdivision (b) of *Section 1345 of the Health and Safety Code* and in Section 1300.67 of Title 28 of the California Code of Regulations.

(ii) The health benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in the following sections of the Health and Safety Code: Sections 1367.002, 1367.06, and 1367.35 (preventive services for children); Section 1367.25 (prescription drug coverage for contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha-fetoprotein testing); Section 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for laryngectomy); Section 1367.62 (maternity hospital stay); Section 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies); Section 1367.64 (prostate cancer); Section 1367.65 (mammography); Section 1367.66 (cervical cancer); Section 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis); Section 1367.68 (surgical procedures for jaw bones); Section 1367.71 (anesthesia for dental); Section 1367.9 (conditions attributable to diethylstilbestrol); Section 1368.2 (hospice care); Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency response ambulance or ambulance transport services); subdivision (b) of Section 1373 (sterilization operations or procedures); Section 1373.4 (inpatient hospital and ambulatory maternity); Section 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for HIV); Section 1374.72 (mental health parity); and Section 1374.73 (autism/behavioral health treatment).

(iii) Any other benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in those statutes.

(iv) The health benefits covered by the plan that are not otherwise required to be covered under Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*, to the extent otherwise required pursuant to *Sections 1367.18, 1367.21, 1367.215, 1367.22, 1367.24, and 1367.25 of the Health and Safety Code*, and Section 1300.67.24 of Title 28 of the California Code of Regulations.

(v) Any other health benefits covered by the plan that are not otherwise required to be covered under Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*.

(B) If there are any conflicts or omissions in the plan identified in subparagraph (A) as compared with the requirements for health benefits under Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code* that were enacted prior to December 31, 2011, the requirements of Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code* shall be controlling, except as otherwise specified in this section.

(C) Notwithstanding subparagraph (B) or any other provision of this section, the home health services benefits covered under the plan identified in subparagraph (A) shall be deemed to not be in conflict with Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*.

(D) For purposes of this section, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (*Public Law 110-343*) shall apply to a policy subject to this section. Coverage of mental health and substance use disorder services pursuant to this paragraph, along with any scope and duration limits imposed on the benefits, shall be in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (*Public Law 110-343*), and all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(3) With respect to habilitative services, in addition to any habilitative services and devices identified in paragraph (2), coverage shall also be provided as required by federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA. Habilitative services and devices shall be covered under the same terms and conditions applied to rehabilitative services and devices under the policy. Limits on habilitative and rehabilitative services and devices shall not be combined.

(4) With respect to pediatric vision care, the same health benefits for pediatric vision care covered under the Federal Employees Dental and Vision Insurance Program vision plan with the largest national enrollment as of the first quarter of 2014. The pediatric vision care services covered pursuant to this paragraph shall be in addition to, and shall not replace, any vision services covered under the plan identified in paragraph (2).

(5) With respect to pediatric oral care, the same health benefits for pediatric oral care covered under the dental benefit received by children under Medi-Cal as of 2014, including the provision of medically necessary orthodontic care provided pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009. The pediatric oral care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any dental or orthodontic services covered under the plan identified in paragraph (2).

(b) Treatment limitations imposed on health benefits described in this section shall be no greater than the treatment limitations imposed by the corresponding plans identified in subdivision (a), subject to the requirements set forth in paragraph (2) of subdivision (a).

(c) Except as provided in subdivision (d), nothing in this section shall be construed to permit a health insurer to make substitutions for the benefits required to be covered under this section, regardless of whether those substitutions are actuarially equivalent.

(d) To the extent permitted under Section 1302 of PPACA and any rules, regulations, or guidance issued pursuant to that section, and to the extent that substitution would not create an obligation for the state to defray costs for any individual, an insurer may substitute its prescription drug formulary for the formulary provided under the plan identified in subdivision (a) as long as the coverage for prescription drugs complies with the sections referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision (a) that apply to prescription drugs.

(e) A health insurer, or its agent, producer, or representative, shall not issue, deliver, renew, offer, market, represent, or sell any product, policy, or discount arrangement as compliant with the essential health benefits requirement in federal law, unless it meets all of the requirements of this section. This subdivision shall be enforced in the same manner as Section 790.03, including through the means specified in Sections 790.035 and 790.05.

(f) This section applies regardless of whether the policy is offered inside or outside the California Health Benefit Exchange created by *Section 100500 of the Government Code*.

(g) This section shall not be construed to exempt a health insurer or a health insurance policy from meeting other applicable requirements of law.

(h) This section shall not be construed to prohibit a policy from covering additional benefits, including, but not limited to, spiritual care services that are tax deductible under *Section 213 of the Internal Revenue Code*.

(i) Subdivision (a) does not apply to any of the following:

(1) A policy that provides excepted benefits as described in Sections 2722 and 2791 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-21; 42 U.S.C. Sec. 300gg-91).

(2) A policy that qualifies as a grandfathered health plan under Section 1251 of PPACA or any binding rules, regulation, or guidance issued pursuant to that section.

(j) This section shall not be implemented in a manner that conflicts with a requirement of PPACA.

(k) This section shall be implemented only to the extent essential health benefits are required pursuant to PPACA.

(l) An essential health benefit is required to be provided under this section only to the extent that federal law does not require the state to defray the costs of the benefit.

(m) This section does not obligate the state to incur costs for the coverage of benefits that are not essential health benefits as defined in this section.

(n) An insurer is not required to cover, under this section, changes to health benefits that are the result of statutes enacted on or after December 31, 2011.

(o)

(1) The commissioner may adopt emergency regulations implementing this section. The commissioner may, on a one-time basis, readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations implementing this section and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(3) The initial adoption of emergency regulations implementing this section made during the 2015-16 Regular Session of the Legislature and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(4) The commissioner shall consult with the Director of the Department of Managed Health Care to ensure consistency and uniformity in the development of regulations under this subdivision.

(5) This subdivision shall become inoperative on July 1, 2018.

(p) Nothing in this section shall impose on health insurance policies the cost sharing or network limitations of the plans identified in subdivision (a) except to the extent otherwise required to comply with provisions of this code, including this section, and as otherwise applicable to all health insurance policies offered to individuals and small groups.

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

(1) “Habilitative services” means health care services and devices that help a person keep, learn, or improve skills and functioning for daily living. Examples include therapy for a child who is not walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology, and other services for people with disabilities in a variety of inpatient or outpatient settings, or both. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the policy.

(2)

(A) "Health benefits," unless otherwise required to be defined pursuant to federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA, means health care items or services for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, disease, or a health condition, including a behavioral health condition.

(B) "Health benefits" does not mean any cost-sharing requirements such as copayments, coinsurance, or deductibles.

(3) "PPACA" means the federal Patient Protection and Affordable Care Act (*Public Law 111-148*), as amended by the federal Health Care and Education Reconciliation Act of 2010 (*Public Law 111-152*), and any rules, regulations, or guidance issued thereunder.

(4) "Small group health insurance policy" means a group health insurance policy issued to a small employer, as defined in Section 10753.

SEC. 204.

Section 10123.193 of the Insurance Code, as added by Section 7 of Chapter 619 of the Statutes of 2015, is amended to read:

10123.193. (a) The Legislature hereby finds and declares all of the following:

(1) The federal Patient Protection and Affordable Care Act, its implementing regulations and guidance, and related state law prohibit discrimination based on a person's expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions, including benefit designs that have the effect of discouraging the enrollment of individuals with significant health needs.

(2) The Legislature intends to build on existing state and federal law to ensure that health coverage benefit designs do not have an unreasonable discriminatory impact on chronically ill individuals, and to ensure affordability of outpatient prescription drugs.

(3) Assignment of all or most prescription medications that treat a specific medical condition to the highest cost tiers of a formulary may effectively discourage enrollment by chronically ill individuals, and may result in lower adherence to a prescription drug treatment regimen.

(b) A nongrandfathered policy of health insurance that is offered, amended, or renewed on or after January 1, 2017, shall comply with this section. The cost-sharing limits established by this section apply only to outpatient prescription drugs covered by the policy that constitute essential health benefits, as defined by Section 10112.27.

(c) A policy of health insurance that provides coverage for outpatient prescription drugs shall cover medically necessary prescription drugs, including nonformulary drugs determined to be medically necessary consistent with this part.

(d) Copayments, coinsurance, and other cost sharing for outpatient prescription drugs shall be reasonable so as to allow access to medically necessary outpatient prescription drugs.

(e)

(1) Consistent with federal law and guidance, the formulary or formularies for outpatient prescription drugs maintained by the health insurer shall not discourage the enrollment of individuals with health conditions and shall not reduce the generosity of the benefit for insureds with a particular condition in a manner that is not based on a clinical indication or reasonable medical management practices. *Section 1342.7 of the Health and Safety Code* and any regulations adopted pursuant to that section shall be interpreted in a manner that is consistent with this section.

(2) For combination antiretroviral drug treatments that are medically necessary for the treatment of AIDS/HIV, a policy of health insurance shall cover a single-tablet drug regimen that is as effective as a multitablet regimen unless, consistent with clinical guidelines and peer-reviewed scientific and medical literature, the multitablet regimen is clinically equally or more effective and more likely to result in adherence to a drug regimen.

(3) Any limitation or utilization management shall be consistent with and based on clinical guidelines and peer-reviewed scientific and medical literature.

(f)

(1) With respect to an individual or group policy of health insurance subject to Section 10112.28, the copayment, coinsurance, or any other form of cost sharing for a covered outpatient prescription drug for an individual prescription for a supply of up to 30 days shall not exceed two hundred fifty dollars ($ 250), except as provided in paragraphs (2) and (3).

(2) With respect to products with actuarial value at or equivalent to the bronze level, cost sharing for a covered outpatient prescription drug for an individual prescription for a supply of up to 30 days shall not exceed five hundred dollars ($ 500), except as provided in paragraph (3).

(3) For a policy of health insurance that is a “high deductible health plan” under the definition set forth in Section 223(c)(2) of Title 26 of the United States Code, paragraphs (1) and (2) of this subdivision applies only once an insured’s deductible has been satisfied for the year.

(4) For a nongrandfathered individual or small group policy of health insurance, the annual deductible for outpatient drugs, if any, shall not exceed twice the amount specified in paragraph (1) or (2), respectively.

(5) For purposes of paragraphs (1) and (2), “any other form of cost sharing” shall not include a deductible.

(g)

(1) If a policy of health insurance offered, sold, or renewed in the nongrandfathered individual or small group market maintains a drug formulary grouped into tiers that includes a fourth tier, a policy of health insurance shall use the following definitions for each tier of the drug formulary:

(A) Tier one shall consist of most generic drugs and low-cost preferred brand name drugs.

(B) Tier two shall consist of nonpreferred generic drugs, preferred brand name drugs, and any other drugs recommended by the health insurer’s pharmacy and therapeutics committee based on safety, efficacy, and cost.

(C) Tier three shall consist of nonpreferred brand name drugs or drugs that are recommended by the health insurer’s pharmacy and therapeutics committee based on safety, efficacy, and cost, or that generally have a preferred and often less costly therapeutic alternative at a lower tier.

(D) Tier four shall consist of drugs that are biologics, drugs that the FDA or the manufacturer requires to be distributed through a specialty pharmacy, drugs that require the insured to have special training or clinical monitoring for self-administration, or drugs that cost the health insurer more than six hundred dollars ($ 600) net of rebates for a one-month supply.

(2) In placing specific drugs on specific tiers, or choosing to place a drug on the formulary, the insurer shall take into account the other provisions of this section and this part.

(3) A policy of health insurance may maintain a drug formulary with fewer than four tiers.

(4) This section shall not be construed to limit a health insurer from placing any drug in a lower tier.

(h) This section shall not be construed to require a health insurer to impose cost sharing. This section shall not be construed to require cost sharing for prescription drugs that state or federal law otherwise requires to be provided without cost sharing.

(i) A policy of health insurance shall ensure that the placement of prescription drugs on formulary tiers is based on clinically indicated, reasonable medical management practices.

(j) In the provision of outpatient prescription drug coverage, a health insurer may utilize formulary, prior authorization, step therapy, or other reasonable medical management practices consistent with this part.

(k) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 205.

Section 10133.15 of the Insurance Code is amended to read:

10133.15.

(a) Commencing July 1, 2016, a health insurer that contracts with providers for alternative rates of payment pursuant to Section 10133 shall publish and maintain provider directory or directories with information on contracting providers that deliver health care services to the insurer's insureds, including those that accept new patients. A provider directory shall not list or include information on a provider that is not currently under contract with the insurer.

(b) An insurer shall provide the online directory or directories for the specific network offered for each product using a consistent method of network and product naming, numbering, or other classification method that ensures the public, insureds, potential insureds, the department, and other state or federal agencies can easily identify the networks and insurer products in which a provider participates. By July 31, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, an insurer shall use the naming, numbering, or classification method developed by the department pursuant to subdivision (k).

(c)

(1) An online provider directory or directories shall be available on the insurer's Internet Web site to the public, potential insureds, insureds, and providers without any restrictions or limitations. The directory or directories shall be accessible without any requirement that an individual seeking the directory information demonstrate coverage with the insurer, indicate interest in obtaining coverage with the insurer, provide a member identification or policy number, provide any other identifying information, or create or access an account.

(2) The online provider directory or directories shall be accessible on the insurer's public Internet Web site through an identifiable link or tab and in a manner that is accessible and searchable by insureds, potential insureds, the public, and providers. By July 1, 2017, or 12 months after the date provider directory standards are developed under subdivision (k), whichever occurs later, the insurer's public Internet Web site shall allow provider searches by, at a minimum, name, practice address, city, ZIP Code, California license number, National Provider Identifier number, admitting privileges to an identified hospital, product, tier, provider language or languages, provider group, hospital name, facility name, or clinic name, as appropriate.

(d)

(1) An insurer shall allow insureds, potential insureds, providers, and members of the public to request a printed copy of the provider directory or directories by contacting the insurer through the insurer's toll-free telephone number, electronically, or in writing. A printed copy of the provider directory or directories shall include the information required in subdivisions (h) and (i).

The printed copy of the provider directory or directories shall be provided to the requester by mail postmarked no later than five business days following the date of the request and may be limited to the geographic region in which the requester resides or works or intends to reside or work.

(2) An insurer shall update its printed provider directory or directories at least quarterly, or more frequently, if required by federal law.

(e)

(1) The insurer shall update the online provider directory or directories, at least weekly, or more frequently, if required by federal law, when informed of and upon confirmation by the insurer of any of the following:

(A) A contracting provider is no longer accepting new patients for that product, or an individual provider within a provider group is no longer accepting new patients.

(B) A contracted provider is no longer under contract for a particular product.

(C) A provider's practice location or other information required under subdivision (h) or (i) has changed.

(D) Upon the completion of the investigation described in subdivision (o), a change is necessary based on an insured complaint that a provider was not accepting new patients, was otherwise not available, or whose contact information was listed incorrectly.

(E) Any other information that affects the content or accuracy of the provider directory or directories.

(2) Upon confirmation of any of the following, the insurer shall delete a provider from the directory or directories when:

(A) A provider has retired or otherwise has ceased to practice.

(B) A provider or provider group is no longer under contract with the insurer for any reason.

(C) The contracting provider group has informed the insurer that the provider is no longer associated with the provider group and is no longer under contract with the insurer.

(f) The provider directory or directories shall include both an email address and a telephone number for members of the public and providers to notify the insurer if the provider directory information appears to be inaccurate. This information shall be disclosed prominently in the directory or directories and on the insurer's Internet Web site.

(g) The provider directory or directories shall include the following disclosures informing insureds that they are entitled to both of the following:

(1) Language interpreter services, at no cost to the insured, including how to obtain interpretation services in accordance with Section 10133.8.

(2) Full and equal access to covered services, including insureds with disabilities as required under the federal Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

(h) The insurer and a specialized mental health insurer shall include all of the following information in the provider directory or directories:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license.

(5) The area of specialty, including board certification, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group currently under contract with the insurer through which the provider sees enrollees.

(8) A listing for each of the following providers that are under contract with the insurer:

(A) For physicians and surgeons, the provider group, and admitting privileges, if any, at hospitals contracted with the insurer.

(B) Nurse practitioners, physician assistants, psychologists, acupuncturists, optometrists, podiatrists, chiropractors, licensed clinical social workers, marriage and family therapists, professional clinical counselors, qualified autism service providers, as defined in Section 10144.51, nurse midwives, and dentists.

(C) For federally qualified health centers or primary care clinics, the name of the federally qualified health center or clinic.

(D) For any provider described in subparagraph (A) or (B) who is employed by a federally qualified health center or primary care clinic, and to the extent their services may be accessed and are covered through the contract with the insurer, the name of the provider, and the name of the federally qualified health center or clinic.

(E) Facilities, including, but not limited to, general acute care hospitals, skilled nursing facilities, urgent care clinics, ambulatory surgery centers, inpatient hospice, residential care facilities, and inpatient rehabilitation facilities.

(F) Pharmacies, clinical laboratories, imaging centers, and other facilities providing contracted health care services.

(9) The provider directory or directories may note that authorization or referral may be required to access some providers.

(10) Non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 10133.8, if any, on the provider's staff.

(11) Identification of providers who no longer accept new patients for some or all of the insurer's products.

(12) The network tier to which the provider is assigned, if the provider is not in the lowest tier, as applicable. Nothing in this section shall be construed to require the use of network tiers other than contract and noncontracting tiers.

(13) All other information necessary to conduct a search pursuant to paragraph (2) of subdivision (c).

(i) A vision, dental, or other specialized insurer, except for a specialized mental health insurer, shall include all of the following information for each provider directory or directories used by the insurer for its networks:

(1) The provider's name, practice location or locations, and contact information.

(2) Type of practitioner.

(3) National Provider Identifier number.

(4) California license number and type of license, if applicable.

(5) The area of specialty, including board certification, or other accreditation, if any.

(6) The provider's office email address, if available.

(7) The name of each affiliated provider group or specialty insurer practice group currently under contract with the insurer through which the provider sees insureds.

(8) The names of each allied health care professional to the extent there is a direct contract for those services covered through a contract with the insurer.

(9) The non-English language, if any, spoken by a health care provider or other medical professional as well as non-English language spoken by a qualified medical interpreter, in accordance with Section 10133.8, if any, on the provider's staff.

(10) Identification of providers who no longer accept new patients for some or all of the insurer's products.

(11) All other applicable information necessary to conduct a provider search pursuant to paragraph (2) of subdivision (c).

(j)

(1) The contract between the insurer and a provider shall include a requirement that the provider inform the insurer within five business days when either of the following occurs:

(A) The provider is not accepting new patients.

(B) If the provider had previously not accepted new patients, the provider is currently accepting new patients.

(2) If a provider who is not accepting new patients is contacted by an insured or potential insured seeking to become a new patient, the provider shall direct the insurer or potential insured to both the insurer for additional assistance in finding a provider and to the department to report any inaccuracy with the insurer's directory or directories.

(3) If an insured or potential insured informs an insurer of a possible inaccuracy in the provider directory or directories, the insurer shall promptly investigate and, if necessary, undertake corrective action within 30 business days to ensure the accuracy of the directory or directories.

(k)

(1) On or before December 31, 2016, the department shall develop uniform provider directory standards to permit consistency in accordance with subdivision (b) and paragraph (2) of subdivision (c) and development of a multiplan directory by another entity. Those standards shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*), until January 1, 2021. No more than two revisions of those standards shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*) pursuant to this subdivision.

(2) In developing the standards under this subdivision, the department shall seek input from interested parties throughout the process of developing the standards and shall hold at least one public meeting. The department shall take into consideration any requirements for provider directories established by the federal Centers for Medicare and Medicaid Services and the State Department of Health Care Services.

(3) By July 31, 2017, or 12 months after the date provider directory standards are developed under this subdivision, whichever occurs later, an insurer shall use the standards developed by the department for each product offered by the insurer.

(l)

(1) An insurer shall take appropriate steps to ensure the accuracy of the information concerning each provider listed in the insurer's provider directory or directories in accordance

with this section, and shall, at least annually, review and update the entire provider directory or directories for each product offered. Each calendar year the insurer shall notify all contracted providers described in subdivisions (h) and (i) as follows:

(A) For individual providers who are not affiliated with a provider group described in subparagraph (A) or (B) of paragraph (8) of subdivision (h) and providers described in subdivision (i), the insurer shall notify each provider at least once every six months.

(B) For all other providers described in subdivision (h) who are not subject to the requirements of subparagraph (A), the insurer shall notify its contracted providers to ensure that all of the providers are contacted by the insurer at least once annually.

(2) The notification shall include all of the following:

(A) The information the insurer has in its directory or directories regarding the provider or provider group, including a list of networks and products that include the contracted provider or provider group.

(B) A statement that the failure to respond to the notification may result in a delay of payment or reimbursement of a claim pursuant to subdivision (p).

(C) Instructions on how the provider or provider group can update the information in the provider directory or directories using the online interface developed pursuant to subdivision (m).

(3) The insurer shall require an affirmative response from the provider or provider group acknowledging that the notification was received. The provider or provider group shall confirm that the information in the provider directory or directories is current and accurate or update the information required to be in the directory or directories pursuant to this section, including whether or not the provider group is accepting new patients for each product.

(4) If the insurer does not receive an affirmative response and confirmation from the provider that the information is current and accurate or, as an alternative, updates any information required to be in the directory or directories pursuant to this section, within 30 business days, the insurer shall take no more than 15 business days to verify whether the provider's information is correct or requires updates. The insurer shall document the receipt and outcome of each attempt to verify the information. If the insurer is unable to verify whether the provider's information is correct or requires updates, the insurer shall notify the provider 10 business days in advance of removal that the provider will be removed from the directory or directories. The provider shall be removed from the directory or directories at the next required update of the provider directory or directories after the 10-business day notice period. A provider shall not be removed from the provider directory or directories if he or she responds before the end of the 10-business day notice period.

(5) General acute care hospitals shall be exempt from the requirements in paragraphs (3) and (4).

(m) An insurer shall establish policies and procedures with regard to the regular updating of its provider directory or directories, including the weekly, quarterly, and annual updates required pursuant to this section, or more frequently, if required by federal law or guidance.

(1) The policies and procedures described under this subdivision shall be submitted by an insurer annually to the department for approval and in a format described by the department.

(2) Every insurer shall ensure processes are in place to allow providers to promptly verify or submit changes to the information required to be in the directory or directories pursuant to this section. Those processes shall, at a minimum, include an online interface for providers to submit verification or changes electronically and shall generate an acknowledgment of receipt

from the insurer. Providers shall verify or submit changes to information required to be in the directory or directories pursuant to this section using the process required by the insurer.

(3) The insurer shall establish and maintain a process for insureds, potential insureds, other providers, and the public to identify and report possible inaccurate, incomplete, or misleading information currently listed in the insurer's provider directory or directories. This process shall, at a minimum, include a telephone number and a dedicated email address at which the insurer will accept these reports, as well as a hyperlink on the insurer's provider directory Internet Web site linking to a form where the information can be reported directly to the insurer through its Internet Web site.

(n)

(1) This section does not prohibit an insurer from requiring its provider groups or contracting specialized health insurers to provide information to the insurer that is required by the insurer to satisfy the requirements of this section for each of the providers that contract with the provider group or contracting specialized health insurer. This responsibility shall be specifically documented in a written contract between the insurer and the provider group or contracting specialized health insurer.

(2) If an insurer requires its contracting provider groups or contracting specialized health insurers to provide the insurer with information described in paragraph (1), the insurer shall continue to retain responsibility for ensuring that the requirements of this section are satisfied.

(3) A provider group may terminate a contract with a provider for a pattern or repeated failure of the provider to update the information required to be in the directory or directories pursuant to this section.

(4) A provider group is not subject to the payment delay described in subdivision (p) if all of the following occurs:

(A) A provider does not respond to the provider group's attempt to verify the provider's information. As used in this paragraph, "verify" means to contact the provider in writing, electronically, and by telephone to confirm whether the provider's information is correct or requires updates.

(B) The provider group documents its efforts to verify the provider's information.

(C) The provider group reports to the insurer that the provider should be deleted from the provider group in the insurer's provider directory or directories.

(5) Section 10133.65, known as the Health Care Providers' Bill of Rights, applies to any material change to a provider contract pursuant to this section.

(o)

(1) Whenever an insurer receives a report indicating that information listed in its provider directory or directories is inaccurate, the insurer shall promptly investigate the reported inaccuracy and, no later than 30 business days following receipt of the report, either verify the accuracy of the information or update the information in its provider directory or directories, as applicable.

(2) When investigating a report regarding its provider directory or directories, the insurer shall, at a minimum, do the following:

(A) Contact the affected provider no later than five business days following receipt of the report.

(B) Document the receipt and outcome of each report. The documentation shall include the provider's name, location, and a description of the insurer's investigation, the outcome

of the investigation, and any changes or updates made to its provider directory or directories.

(C) If changes to an insurer's provider directory or directories are required as a result of the insurer's investigation, the changes to the online provider directory or directories shall be made no later than the next scheduled weekly update, or the update immediately following that update, or sooner if required by federal law or regulations. For printed provider directories, the change shall be made no later than the next required update, or sooner if required by federal law or regulations.

(p)

(1) Notwithstanding Sections 10123.13 and 10123.147, an insurer may delay payment or reimbursement owed to a provider or provider group for any claims payment made to a provider or provider group for up to one calendar month beginning on the first day of the following month, if the provider or provider group fails to respond to the insurer's attempts to verify the provider's information as required under subdivision (l). The insurer shall not delay payment unless it has attempted to verify the provider's or provider group's information. As used in this subdivision, "verify" means to contact the provider or provider group in writing, electronically, and by telephone to confirm whether the provider's or provider group's information is correct or requires updates. An insurer may seek to delay payment or reimbursement owed to a provider or provider group only after the 10-business day notice period described in paragraph (4) of subdivision (l) has lapsed.

(2) An insurer shall notify the provider or provider group 10 days before it seeks to delay payment or reimbursement to a provider or provider group pursuant to this subdivision. If the insurer delays a payment or reimbursement pursuant to this subdivision, the insurer shall reimburse the full amount of any payment or reimbursement subject to delay to the provider or provider group according to either of the following timelines, as applicable:

(A) No later than three business days following the date on which the insurer receives the information required to be submitted by the provider or provider group pursuant to subdivision (l).

(B) At the end of the one-calendar-month delay described in paragraph (1), if the provider or provider group fails to provide the information required to be submitted to the insurer pursuant to subdivision (l).

(3) An insurer may terminate a contract for a pattern or repeated failure of the provider or provider group to alert the insurer to a change in the information required to be in the directory or directories pursuant to this section.

(4) An insurer that delays payment or reimbursement under this subdivision shall document each instance a payment or reimbursement was delayed and report this information to the department in a format described by the department. This information shall be submitted along with the policies and procedures required to be submitted annually to the department pursuant to paragraph (1) of subdivision (m).

(q) In circumstances where the department finds that an insured reasonably relied upon materially inaccurate, incomplete, or misleading information contained in an insurer's provider directory or directories, the department may require the insurer to provide coverage for all covered health care services provided to the insured and to reimburse the insured for any amount beyond what the insured would have paid, had the services been delivered by an in-network provider under the insured's health insurance policy. Prior to requiring reimbursement in these circumstances, the department shall conclude that the services received by the insured were covered services under the insured's health insurance policy. In those circumstances, the fact that the services were rendered or delivered by a noncontracting or out-of-network provider shall not be used as a basis to deny reimbursement to the insured.

(r) Whenever an insurer determines as a result of this section that there has been a 10-percent change in the network for a product in a region, the insurer shall file a statement with the commissioner.

(s) An insurer that contracts with multiple employer welfare agreements regulated pursuant to Article 4.7 (commencing with Section 742.20) of Chapter 1 of Part 2 of Division 1 shall meet the requirements of this section.

(t) This section shall not be construed to alter a provider's obligation to provide health care services to an insured pursuant to the provider's contract with the insurer.

(u) As part of the department's routine examination of a health insurer pursuant to Section 730, the department shall include a review of the health insurer's compliance with subdivision (p).

(v) For purposes of this section, "provider group" means a medical group, independent practice association, or other similar group of providers.

SEC. 206.

Section 10169 of the Insurance Code, as added by Section 19 of Chapter 348 of the Statutes of 2015, is amended to read:

10169.

(a) Commencing January 1, 2001, there is hereby established in the department the Independent Medical Review System.

(b) For the purposes of this chapter, "disputed health care service" means any health care service eligible for coverage and payment under a disability insurance contract that has been denied, modified, or delayed by a decision of the insurer, or by one of its contracting providers, in whole or in part due to a finding that the service is not medically necessary. A decision regarding a disputed health care service relates to the practice of medicine and is not a coverage decision. A disputed health care service does not include services provided by a group or individual policy of vision- or dental-only coverage, except to the extent that (1) the service involves the practice of medicine, or (2) is provided pursuant to a contract with a disability insurer that covers hospital, medical, or surgical benefits. If an insurer, or one of its contracting providers, issues a decision denying, modifying, or delaying health care services, based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the insured, the statement of decision shall clearly specify the provision in the contract that excludes that coverage.

(c) For the purposes of this chapter, "coverage decision" means the approval or denial of health care services by a disability insurer, or by one of its contracting entities, substantially based on a finding that the provision of a particular service is included or excluded as a covered benefit under the terms and conditions of the disability insurance contract. A coverage decision does not encompass a disability insurer or contracting provider decision regarding a disputed health care service.

(d)

(1) All insured grievances involving a disputed health care service are eligible for review under the Independent Medical Review System if the requirements of this article are met. If the department finds that an insured grievance involving a disputed health care service does not meet the requirements of this article for review under the Independent Medical Review System, the insured request for review shall be treated as a request for the department to review the grievance. All other insured grievances, including grievances involving coverage decisions, remain eligible for review by the department.

(2) In any case in which an insured or provider asserts that a decision to deny, modify, or delay health care services was based, in whole or in part, on consideration of medical necessity, the department

shall have the final authority to determine whether the grievance is more properly resolved pursuant to an independent medical review as provided under this article.

(3) The department shall be the final arbiter when there is a question as to whether an insured grievance is a disputed health care service or a coverage decision. The department shall establish a process to complete an initial screening of an insured grievance. If there appears to be any medical necessity issue, the grievance shall be resolved pursuant to an independent medical review as provided under this article.

(e) Every disability insurance contract that is issued, amended, renewed, or delivered in this state on or after January 1, 2000, shall provide an insured with the opportunity to seek an independent medical review whenever health care services have been denied, modified, or delayed by the insurer, or by one of its contracting providers, if the decision was based in whole or in part on a finding that the proposed health care services are not medically necessary. For purposes of this article, an insured may designate an agent to act on his or her behalf. The provider may join with or otherwise assist the insured in seeking an independent medical review, and may advocate on behalf of the insured.

(f) Medicare beneficiaries enrolled in Medicare + Choice products shall not be excluded unless expressly preempted by federal law.

(g) The department may seek to integrate the quality of care and consumer protection provisions, including remedies, of the Independent Medical Review System with related dispute resolution procedures of other health care agency programs, including the Medicare program, in a way that minimizes the potential for duplication, conflict, and added costs. Nothing in this subdivision shall be construed to limit any rights conferred upon insureds under this chapter.

(h) The independent medical review process authorized by this article is in addition to any other procedures or remedies that may be available.

(i) Every disability insurer shall prominently display in every insurer member handbook or relevant informational brochure, in every insurance contract, on insured evidence of coverage forms, on copies of insurer procedures for resolving grievances, on letters of denials issued by either the insurer or its contracting organization, and on all written responses to grievances, information concerning the right of an insured to request an independent medical review when the insured believes that health care services have been improperly denied, modified, or delayed by the insurer, or by one of its contracting providers. The department's telephone number, 1-800-927-4357, and Internet Web site, *www.insurance.ca.gov*, shall also be displayed.

(j) An insured may apply to the department for an independent medical review when all of the following conditions are met:

(1)

(A) The insured's provider has recommended a health care service as medically necessary, or

(B) The insured has received urgent care or emergency services that a provider determined was medically necessary, or

(C)

The insured, in the absence of a provider recommendation under subparagraph (A) or the receipt of urgent care or emergency services by a provider under subparagraph (B), has been seen by a contracting provider for the diagnosis or treatment of the medical condition for which the insured seeks independent review. The insurer shall expedite access to a contracting provider upon request of an insured. The contracting provider need not recommend the disputed health care service as a condition for the insured to be eligible for an independent review.

For purposes of this article, the insured's provider may be a noncontracting provider. However, the insurer shall have no liability for payment of services provided by a noncontracting provider, except as provided pursuant to Section 10169.3.

(2) The disputed health care service has been denied, modified, or delayed by the insurer, or by one of its contracting providers, based in whole or in part on a decision that the health care service is not medically necessary.

(3) The insured has filed a grievance with the insurer or its contracting provider, and the disputed decision is upheld or the grievance remains unresolved after 30 days. The insured shall not be required to participate in the insurer's grievance process for more than 30 days. In the case of a grievance that requires expedited review, the insured shall not be required to participate in the insurer's grievance process for more than three days.

(k) An insured may apply to the department for an independent medical review of a decision to deny, modify, or delay health care services, based in whole or in part on a finding that the disputed health care services are not medically necessary, within six months of any of the qualifying periods or events under subdivision (j). The commissioner may extend the application deadline beyond six months if the circumstances of a case warrant the extension.

(l) The insured shall pay no application or processing fees of any kind.

(m) As part of its notification to the insured regarding a disposition of the insured's grievance that denies, modifies, or delays health care services, the insurer shall provide the insured with a one- or two-page application form approved by the department, and an addressed envelope, which the insured may return to initiate an independent medical review. The insurer shall include on the form any information required by the department to facilitate the completion of the independent medical review, such as the insured's diagnosis or condition, the nature of the disputed health care service sought by the insured, a means to identify the insured's case, and any other material information. The form shall also include the following:

(1) Notice that a decision not to participate in the independent review process may cause the insured to forfeit any statutory right to pursue legal action against the insurer regarding the disputed health care service.

(2) A statement indicating the insured's consent to obtain any necessary medical records from the insurer, any of its contracting providers, and any noncontracting provider the insured may have consulted on the matter, to be signed by the insured.

(3) Notice of the insured's right to provide information or documentation, either directly or through the insured's provider, regarding any of the following:

(A) A provider recommendation indicating that the disputed health care service is medically necessary for the insured's medical condition.

(B) Medical information or justification that a disputed health care service, on an urgent care or emergency basis, was medically necessary for the insured's medical condition.

(C) Reasonable information supporting the insured's position that the disputed health care service is or was medically necessary for the insured's medical condition, including all information provided to the insured by the insurer or any of its contracting providers, still in the possession of the insured, concerning an insurer or provider decision regarding disputed health care services, and a copy of any materials the insured submitted to the insurer, still in the possession of the insured, in support of the grievance, as well as any additional material that the insured believes is relevant.

(4) A section designed to collect information on the insured's ethnicity, race, and primary language spoken that includes both of the following:

(A) A statement of intent indicating that the information is used for statistics only, in order to ensure that all insureds get the best care possible.

(B) A statement indicating that providing this information is optional and will not affect the independent medical review process in any way.

(n) Upon notice from the department that the insured has applied for an independent medical review, the insurer or its contracting providers, shall provide to the independent medical review organization designated by the department a copy of all of the following documents within three business days of the insurer's receipt of the department's notice of a request by an insured for an independent review:

(1)

(A) A copy of all of the insured's medical records in the possession of the insurer or its contracting providers relevant to each of the following:

(i) The insured's medical condition.

(ii) The health care services being provided by the insurer and its contracting providers for the condition.

(iii) The disputed health care services requested by the insured for the condition.

(B) Any newly developed or discovered relevant medical records in the possession of the insurer or its contracting providers after the initial documents are provided to the independent medical review organization shall be forwarded immediately to the independent medical review organization. The insurer shall concurrently provide a copy of medical records required by this subparagraph to the insured or the insured's provider, if authorized by the insured, unless the offer of medical records is declined or otherwise prohibited by law. The confidentiality of all medical record information shall be maintained pursuant to applicable state and federal laws.

(2) A copy of all information provided to the insured by the insurer and any of its contracting providers concerning insurer and provider decisions regarding the insured's condition and care, and a copy of any materials the insured or the insured's provider submitted to the insurer and to the insurer's contracting providers in support of the insured's request for disputed health care services. This documentation shall include the written response to the insured's grievance. The confidentiality of any insured medical information shall be maintained pursuant to applicable state and federal laws.

(3) A copy of any other relevant documents or information used by the insurer or its contracting providers in determining whether disputed health care services should have been provided, and any statements by the insurer and its contracting providers explaining the reasons for the decision to deny, modify, or delay disputed health care services on the basis of medical necessity. The insurer shall concurrently provide a copy of documents required by this paragraph, except for any information found by the commissioner to be legally privileged information, to the insured and the insured's provider. The department and the independent medical review organization shall maintain the confidentiality of any information found by the commissioner to be the proprietary information of the insurer.

(o) This section shall become operative on January 1, 2017.

SEC. 207.

Section 10192.18 of the Insurance Code, as added by Section 21 of Chapter 348 of the Statutes of 2015, is amended to read:

10192.18.

(a)

Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medi-Cal coverage, or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other disability policy or certificate presently

in force. A supplementary application or other form to be signed by the applicant and agent containing those questions and statements may be used.

(Statements)

(1) You do not need more than one Medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medi-Cal and may not need a Medicare supplement policy.

(4) If after purchasing this policy you become eligible for Medi-Cal, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medi-Cal for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal. If you are no longer entitled to Medi-Cal, your suspended Medicare supplement policy or if that is no longer available, a substantially equivalent policy, will be reinstituted if requested within 90 days of losing Medi-Cal eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(5) If you are eligible for, and have enrolled in, a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances and later lose your employer or union-based group health plan, your suspended Medicare supplement policy or if that is no longer available, a substantially equivalent policy, will be reinstituted if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(6)

Counseling services are available in this state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the Medi-Cal program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB). If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance's toll-free telephone number 1-800-927-HELP, or access the department's Internet Web site, *www.insurance.ca.gov*, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

(Questions)

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application.

PLEASE ANSWER ALL QUESTIONS.

[Please mark Yes or No below with an "X."]

To the best of your knowledge,

(1)

(a)

Did you turn 65 years of age in the last 6 months?

Yes____ No____

(b)

Did you enroll in Medicare Part B in the last 6 months?

Yes____ No____

(c) If yes, what is the effective date? _ _ _ _ _ _ _ _ _

(2)

Are you covered for medical assistance through California's Medi-Cal program?

NOTE TO APPLICANT: If you have a share of cost under the Medi-Cal program, please answer NO to this question.

Yes____ No____

If yes,

(a)

Will Medi-Cal pay your premiums for this Medicare supplement policy?

Yes____ No____

(b)

Do you receive benefits from Medi-Cal OTHER THAN payments toward your Medicare Part B premium?

Yes____ No____

(3)

(a)

If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

START __/__/__ END __/__/__

(b)

If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

Yes____ No____

(c)

Was this your first time in this type of Medicare plan?

Yes____ No____

(d)

Did you drop a Medicare supplement policy to enroll in the Medicare plan?

Yes____ No____

(4)

(a)

Do you have another Medicare supplement policy in force?

Yes____ No____

(b)

If so, with what company, and what plan do you have? [optional for direct mailers]

Yes____ No____

(c)

If so, do you intend to replace your current Medicare supplement policy with this policy?

Yes____ No____

(5)

Have you had coverage under any other health insurance within the past 63 days (For example, an employer, union, or individual plan)?

Yes____ No____

(a)

If so, with what companies and what kind of policy?

_ _

_ _

_ _

_ _

(b)

What are your dates of coverage under the other policy?

START __/__/__ END __/__/__

(If you are still covered under the other policy, leave “END” blank.)

(b) Agents shall list any other health insurance policies they have sold to the applicant as follows:

(1) List policies sold that are still in force.

(2) List policies sold in the past five years that are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the issuer, shall be returned to the applicant by the issuer upon delivery of the policy.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance for delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except when the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer as provided in Section 10508. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(e)

The notice required by subdivision (d) for an issuer shall be in the form specified by the commissioner, using, to the extent practicable, a model notice prepared by the National Association of Insurance Commissioners for this purpose. The replacement notice shall be printed in no less than 12-point type in substantially the following form:

[Insurer’s name and address]

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE ADVANTAGE

SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE FUTURE.

If you intend to cancel or terminate existing Medicare supplement or Medicare Advantage insurance and replace it with coverage issued by [company name], please review the new coverage carefully and replace the existing coverage ONLY if the new coverage materially improves your position. DO NOT CANCEL YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

If you decide to purchase the new coverage, you will have 30 days after you receive the policy to return it to the insurer, for any reason, and receive a refund of your money.

If you want to discuss buying Medicare supplement or Medicare Advantage coverage with a trained insurance counselor, call the California Department of Insurance's toll-free telephone number 1-800-927-HELP, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

STATEMENT TO APPLICANT FROM THE INSURER AND AGENT: I have reviewed your current health insurance coverage. To the best of my knowledge, the replacement of insurance involved in this transaction does not duplicate coverage or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your Medicare Advantage plan. In addition, the replacement coverage contains benefits that are clearly and substantially greater than your current benefits for the following reasons:

__ Additional benefits that are: _____

__ No change in benefits, but lower premiums.

__ Fewer benefits and lower premiums.

__ Plan has outpatient prescription drug coverage and applicant is enrolled

in Medicare Part D.

__ Disenrollment from a Medicare Advantage plan. Reasons for disenrollment:

__ Other reasons specified here: _____

1.

Note: If the issuer of the Medicare supplement policy being applied for does not impose, or is otherwise prohibited from imposing, preexisting condition limitations, please skip to statement 3 below. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2.

State law provides that your replacement Medicare supplement policy may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new coverage for similar benefits to the extent that time was spent (depleted) under the original policy.

3.

If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer any and all questions on the application concerning your medical and health history. Failure to include all material medical information on an application requesting that information may provide a basis for the insurer to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

(Signature of Agent, Broker, or Other Representative) (Signature of Applicant) (Date)

(f) An issuer, broker, agent, or other person shall not cause an insured to replace a Medicare supplement insurance policy unnecessarily. In recommending replacement of any Medicare supplement insurance, an agent shall make reasonable efforts to determine the appropriateness to the potential insured.

(g) An issuer shall not require, request, or obtain health information as part of the application process for an applicant who is eligible for guaranteed issuance of, or open enrollment for, any Medicare supplement coverage pursuant to Section 10192.11 or 10192.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 10192.11 when the applicant is first enrolled in Medicare Part B. The application form shall include a clear and conspicuous statement that the applicant is not required to provide health information during a period where guaranteed issue or open enrollment applies, as specified in Section 10192.11 or 10192.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 10192.11 when the applicant is first enrolled in Medicare Part B, and shall inform the applicant of those periods of guaranteed issuance of Medicare supplement coverage. This subdivision does not prohibit an issuer from requiring proof of eligibility for a guaranteed issuance of Medicare supplement coverage.

(h) This section shall become operative on January 1, 2017.

SEC. 208.

Section 10489.2 of the Insurance Code is amended to read:

10489.2.

For a computation of minimum standard, except as provided in Sections 10489.3, 10489.4, and 10489.95, the minimum standard for the valuation of policies and contracts issued prior to the effective date of the amendments to this section shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in Sections 10489.3, 10489.4, and 10489.95, the minimum standard for the valuation of those policies and contracts shall be the commissioners reserve valuation methods defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, 3 1 / 2 percent per annum interest, or in the case of life insurance policies and contracts, other than certain annuity and pure endowment contracts, issued on or after January 1, 1970, 4 percent per annum interest for policies issued prior to January 1, 1980, 5 1 / 2 percent per annum interest may be used for single premium life insurance policies, and 4 1 / 2 percent per annum interest for all other policies issued on or after January 1, 1980, and the following tables:

(a) For ordinary policies of life insurance issued on the standard basis,

excluding any disability and accidental death benefits in those policies--the

Commissioners 1941 Standard Ordinary Mortality Table for policies issued prior

to the operative date of subdivision (a) of Section 10163.1, and the

Commissioners 1958 Standard Ordinary Mortality Table for policies issued on or

after the operative date of subdivision (a) of Section 10163.1, as amended by

Chapter 940 of the Statutes of 1982, and prior to the operative date of Section

10163.2, as amended by Chapter 28 of the Statutes of 1997, provided that for any category of policies issued on female risks, all modified net premiums and present values referred to in this article may be calculated according to an age not more than six years younger than the actual age of the insured. For policies issued on or after the original operative date of Section 10163.2, as amended by Chapter 28 of the Statutes of 1997, the following apply:

(1) The Commissioners 1980 Standard Ordinary Mortality Table.

(2) At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.

(3) Any ordinary mortality table, adopted after 1980 by the NAIC, or its successor, that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the 1941 Standard Industrial Mortality Table for policies issued prior to the operative date of subdivision (b) of Section 10163.1, of the Standard Nonforfeiture Law for Life Insurance as amended, and for policies issued on or after the operative date the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for the policies.

(c) For individual annuity and pure endowment contracts issued prior to the compliance date of Section 10489.3, excluding any disability and accidental death benefits in the policies: 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of these tables approved by the commissioner. However, the minimum standard for such contracts issued from January 1, 1968, through December 31, 1968, with commencement of benefits deferred not more than one year from date of issue, may be, at the option of the company, 4 percent per annum interest, and for contracts issued from January 1, 1969, to the compliance date of Section 10489.3, with commencement of benefits deferred not more than 10 years from the date of issue and with premiums payable in one sum may be, at the option of the company, 5 percent per annum interest.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies: the Group Annuity Mortality Table for 1951, a modification of the table approved by the commissioner, or, at the option of the company, any of the tables or modifications of the tables specified for individual annuity and pure endowment contracts. However, the minimum standard for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received on or after January 1, 1968, through December 31, 1968, may be, at the option of the company, 4 percent per annum interest, and for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received from January 1, 1969, to the compliance date of Section 10489.3, may be at the option of the company, 5 percent per annum interest.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts: for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the NAIC that are approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for those policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either those

tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies issued on or after January 1, 1966: the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for those policies, for policies issued on or after January 1, 1961, and prior to January 1, 1966, either that table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits: tables approved by the commissioner.

(h) The commissioner may by bulletin withdraw approval to use tables that have been replaced by newly adopted tables.

SEC. 209.

Section 10489.3 of the Insurance Code is amended to read:

10489.3.

(a) Except as provided in Section 10489.4, the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of this section and for annuities and pure endowments purchased on or after that operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in Sections 10489.5 and 10489.6 and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and 6 percent per annum interest rate for all contracts with commencement of benefits deferred not more than 10 years from the date of issue and with premiums payable in one sum and 4 percent per annum interest for all other individual annuity and pure endowment contracts.

(2) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for these contracts, or any modification of these tables approved by the commissioner, and 7 1 / 2 percent per annum interest.

(3) For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in those contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for those contracts, or any modification of these tables approved by the commissioner, and 5 1 / 2 percent per annum interest for single premium deferred annuity and pure endowment contracts, and 4 1 / 2 percent per annum interest for all other individual annuity and pure endowment contracts.

(4) For annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits

purchased under those contracts: the 1971 Group Annuity Mortality Table or any modification of this table approved by the commissioner, and 6 percent per annum interest.

(5) For annuities and pure endowments purchased on or after January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts: the 1971 Group Annuity Mortality Table, or any group annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for annuities and pure endowments, or any modification of these tables approved by the commissioner, and 7 1 / 2 percent interest.

(6) All individual annuity and pure endowment contracts entered into prior to January 1, 1980, and all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts shall remain subject to the provisions of Article 3A (commencing with Section 10489.1) as it existed prior to January 1, 1980.

(b) The commissioner may, by bulletin, withdraw approval to use tables that have been replaced by newly adopted tables.

SEC. 210.

Section 10489.96 of the Insurance Code is amended to read:

10489.96.

(a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subdivision (b) of Section 10489.12, except as provided under subdivision (e) or (g).

(b)

(1) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(A) The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater.

(B) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident, and health annual statements, health annual statements, or fraternal annual statements.

(C) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: The 50 states of the United States, American Samoa, the United States Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(2) Notwithstanding paragraph (1), the valuation manual shall not become operative until the commissioner certifies that adequate funding has been appropriated by the Legislature, and that all other necessary resources, including, but not limited to, adequate staff, are available and sufficient to enable the commissioner to carry out the duties required pursuant to Section 10489.992, and all other duties imposed on the commissioner pursuant to Senate Bill 696 of the 2015-16 Regular Session. The commissioner shall make that certification by submitting a letter to the Chairs of the Assembly Committee on Insurance and the Senate Committee on Insurance stating that the funding and other necessary resources are available and sufficient to carry out those duties. The commissioner shall post a notice on the department's Internet Web site immediately after submitting that certification letter stating that the certification letter has been submitted and that the provisions of the valuation manual are in effect.

(c) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:

(1) The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(A) At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership.

(B) Members of the NAIC representing jurisdictions totaling greater than 75 percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subparagraph (A): life, accident, and health annual statement, health annual statements, or fraternal annual statements.

(2) The commissioner has issued an order adopting the valuation manual with the changes. The commissioner shall issue the order only if he or she finds that the conditions set forth in paragraph (1) have been satisfied.

(d) The valuation manual shall specify all of the following:

(1) Minimum valuation standards for and definitions of the policies or contracts subject to subdivision (b) of Section 10489.12. Those minimum valuation standards shall be:

(A) The commissioners reserve valuation method for life insurance contracts, other than annuity contracts, subject to subdivision (b) of Section 10489.12.

(B) The commissioners annuity reserve valuation method for annuity contracts subject to subdivision (b) of Section 10489.12.

(C) Minimum reserves for all other policies or contracts subject to subdivision (b) of Section 10489.12.

(2) Which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation in subdivision (a) of Section 10489.97 and the minimum valuation standards consistent with those requirements.

(3) For policies and contracts subject to a principle-based valuation under Section 10489.97:

(A) Requirements for the format of reports to the commissioner under paragraph (3) of subdivision (b) of Section 10489.97, which shall include information necessary to determine if the valuation is appropriate and in compliance with this article.

(B) Assumptions for risks over which the company does not have significant control or influence.

(C) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of those procedures.

(4) For policies not subject to a principle-based valuation under Section 10489.97, the minimum valuation standard that shall either:

(A) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual.

(B) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(5) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls.

(6) The data and form of the data required pursuant to Section 10489.98, with whom the data is required to be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with, or conflicts with, this code, then the company shall, with respect to those requirements, comply with the minimum valuation standards prescribed by the code or by the commissioner by regulation or bulletin.

(f) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this article. The commissioner may rely upon the opinion, regarding the provisions contained within this article, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this subdivision, the term "engage" includes employment and contracting.

(g) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this article, and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to all other applicable law.

SEC. 211.

Section 10489.99 of the Insurance Code is amended to read:

10489.99.

(a) For purposes of this section, "confidential information" means:

(1) A memorandum in support of an opinion submitted pursuant to Section 10489.15 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the memorandum.

(2) All documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subdivision (f) of Section 10489.96. However, if an examination report or other material prepared in connection with an examination made under Article 4 (commencing with Section 729) of Chapter 1 of Part 2 of Division 1 is not held as private and confidential information under that article, an examination report or other material prepared in connection with an examination made under subdivision (f) of Section 10489.96 shall not be "confidential information" to the same extent as if the examination report or other material had been prepared under Article 4 (commencing with Section 729) of Chapter 1 of Part 2 of Division 1.

(3) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under paragraph (2) of subdivision (b) of Section 10489.97 evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with those reports, documents, materials, and other information.

(4) Any principle-based valuation report developed under paragraph (3) of subdivision (b) of Section 10489.97 and any other documents, materials, and other information, including, but not

limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the report.

(5) All of the following:

(A) Any documents, materials, data, and other information submitted by a company pursuant to Section 10489.98, to be known collectively, as "experience data."

(B) Experience data plus any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with the experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, to be known, collectively, as "experience materials."

(C) Any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the experience materials.

(b)

(1) Except as provided in this section, a company's confidential information shall be confidential by law and privileged, shall not be subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with *Section 6250) of Division 7 of Title 1 of the Government Code*), and shall not be subject to subpoena or discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the confidential information in a regulatory or legal action brought against the company as a part of the commissioner's official duties.

(2) The commissioner, any person who received confidential information while acting under the authority of the commissioner, or any person with whom those documents, materials, or other information are shared pursuant to paragraph (3), shall not be permitted or required to testify in a private civil action concerning any confidential information.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information with the following recipients, provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner:

(A) Other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries.

(B) In the case of confidential information specified in paragraphs (1) and (4) of subdivision (a) of Section 10489.99 only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials.

(4) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(5) The commissioner may enter into agreements governing sharing and use of information consistent with this subdivision.

(6) A waiver of any applicable privilege or claim of confidentiality in the information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subdivision shall be available and enforced in any proceeding in, and in any court of, this state.

(8) For purposes of this section, “regulatory agency,” “law enforcement agency,” and the “NAIC” include, but are not limited to, their employees, agents, consultants, and contractors.

(c) Notwithstanding subdivision (b), any confidential information specified in paragraphs (1) and (4) of subdivision (a):

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section 10489.15 or principle-based valuation report developed under paragraph (3) of subdivision (b) of Section 10489.97 by reason of an action required by this article or by regulations promulgated pursuant to this article.

(2) May otherwise be released by the commissioner with the written consent of the company.

(3) Once any portion of a memorandum in support of an opinion submitted under Section 10489.15 or a principle-based valuation report developed pursuant to paragraph (3) of subdivision (b) of Section 10489.97 is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the memorandum or report shall no longer be confidential.

(d) This section shall not be construed to limit the right of access to, or prohibit the admissibility as evidence in a private civil action of, any information, documents, data, or other materials not held for the purposes of this article by the commissioner or a person acting under the authority of the commissioner, including nondepartment actuaries and other consultants hired to implement this article, or a person with whom the commissioner has shared confidential information pursuant to paragraph (3) of subdivision (b).

SEC. 212.

Section 10603 of the Insurance Code is amended to read:

10603.

(a)

(1) On or before April 1, 1975, the commissioner shall promulgate a standard supplemental disclosure form for all disability insurance policies. Upon the appropriate disclosure form as prescribed by the commissioner, each insurer shall provide, in easily understood language and in a uniform, clearly organized manner, as prescribed and required by the commissioner, the summary information about each disability insurance policy offered by the insurer as the commissioner finds is necessary to provide for full and fair disclosure of the provisions of the policy.

(2) On and after January 1, 2014, a disability insurer offering health insurance coverage subject to Section 2715 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-15) shall satisfy the requirements of this section and the implementing regulations by providing the uniform summary of benefits and coverage required under Section 2715 of the federal Public Health Service Act and any rules or regulations issued thereunder. An insurer that issues the federal uniform summary of benefits referenced in this paragraph shall ensure that all applicable disclosures required in this chapter and its implementing regulations are met in other

documents provided to policyholders and insureds. An insurer subject to this paragraph shall provide the uniform summary of benefits and coverage to the commissioner together with the corresponding health insurance policy pursuant to Section 10290.

(3) Commencing October 1, 2016, the uniform summary of benefits and coverage referenced in this subdivision shall constitute a vital document for the purposes of Section 10133.8. Not later than July 1, 2016, the commissioner shall develop written translations of the template uniform summary of benefits and coverage for all language groups identified by the State Department of Health Care Services in all plan letters as of August 27, 2014, for translation services pursuant to *Section 14029.91 of the Welfare and Institutions Code*, except for any language group for which the United States Department of Labor has already prepared a written translation. Not later than July 1, 2016, the commissioner shall make available on the department's Internet Web site written translations of the template uniform summary of benefits and coverage developed by the commissioner, and written translations prepared by the United States Department of Labor, if available, for any language group to which this subparagraph applies.

(b) This section does not preclude the disclosure form from being included with the evidence of coverage or certificate of coverage or policy.

SEC. 213.

Section 12389 of the Insurance Code, as added by Section 3 of Chapter 370 of the Statutes of 2015, is amended to read:

12389.

(a) On and after July 1, 2016, an underwritten title company as defined in Section 12340.5 that is a stock corporation may, subject to subdivision (b), (1) engage in the business of preparing title searches, title reports, title examinations, or certificates or abstracts of title, upon the basis of which a title insurer writes title policies, and (2) conduct escrow services through business locations, as defined in Section 12340.13, in counties in which the underwritten title company is licensed to conduct escrow services regardless of the location of the real or personal property involved in the transaction.

(b)

(1) Only a domestic corporation may be licensed under this section and no underwritten title company, as defined in Section 12340.5, may become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with Section 881.

(2)

(A)

Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth and a bond or cash deposit as follows:

Aggregate number of
documents recorded and
documents filed in the
preceding calendar year
in all counties where the
company is licensed to
transact business

Number of documentsAmount of requiredAmount of bond or cash

minimum net worthdeposit

Less than 50,000$ 75,000$ 50,000

50,000 to 100,000120,00050,000

100,000 to 500,000200,000100,000

500,000 to 1,000,000300,000100,000

1,000,000 or more400,000100,000

(B) "Net worth" for the purposes of this section is defined as the excess of assets over all liabilities and required reserves. The company may carry as an asset the actual cost of its title plant, provided the value ascribed to that asset shall not exceed the aggregate value of all other assets.

(C) If a title plant of an underwritten title company is not currently maintained, the asset value of the plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which that plant is currently maintained, less one-tenth thereof for each succeeding year or part of the succeeding year that the plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (i) the owner of the plant continues regularly to obtain and index title record data to the plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of the data, or (ii) the owner of the plant is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided the owner is contractually entitled to receive a copy of the title record data contained in the jointly used title plant system during the period of the owner's participation therein, either periodically or upon termination of that participation, at a cost not to exceed the actual cost of duplication of the title record data.

(D) An underwritten title company shall at all times maintain current assets of at least ten thousand dollars ($ 10,000) in excess of its current liabilities, as current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making the regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3)

(A) An underwritten title company shall obtain from the commissioner a license to transact its business. The license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to the applicant. After issuance the holder of the license shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner, and in the laws of this state.

(B) An underwritten title company that possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1, and is deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of *Section 25100 of the Corporations Code*.

(C) The license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred fifty-four dollars ($ 354). The license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

(D) An underwritten title company seeking to extend its license to an additional county shall pay a two-hundred-seven-dollar ($ 207) fee for each additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of

paragraph (2), of its financial ability to expand its business operation to include the additional county or counties.

(4)

(A) An underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31 or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any audit required by this paragraph may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within the extended time that the commissioner may grant, is grounds for an order by the commissioner to accept no new business pursuant to subdivision (g). The audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

(B) The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant whose certification or license is in good standing at the time of the preparation. The fee for filing the audit shall be three hundred thirteen dollars ($ 313).

(C) The commissioner may refuse to accept an audit or order a new audit for any of the following reasons:

(i) An adverse result in any proceeding before the California Board of Accountancy affecting the auditor's license.

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors that would prevent his or her reports on the company from being reasonably objective.

(iii) The auditor has been convicted of a misdemeanor or felony based on his or her activities as an accountant.

(iv) A judgment adverse to the auditor in any civil action finding him or her guilty of fraud, deceit, or misrepresentation in the practice of his or her profession.

(D) A company that fails to file an audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred eighteen dollars ($ 118) and on failure to pay that or another fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(c) An underwritten title company may engage in the escrow business and act as escrow agent, provided that:

(1) It maintains a record of all receipts and disbursements of escrow funds.

(2)

(A) It maintains a bond satisfactory to the commissioner in the amount set forth in subparagraph (A) of paragraph (2) of subdivision (b). The bond shall run to the state for the use of the state, and for any person who has cause against the obligor of the bond or under the provisions of this chapter.

(B)

(i) In lieu of the bond described in subparagraph (A), the company may maintain a deposit in the amount set forth in subparagraph (A) of paragraph (2) of subdivision (b), and in a form permitted by Section 12351, with the commissioner, who shall immediately make a special deposit in that amount in the State Treasury. The deposit shall be subject to Sections 12353, 12356, 12357, and 12358. As long as there are no claims against the deposit, all interest and dividends thereon shall be paid to the depositor. The deposit shall be security for the same

beneficiaries and purposes as the bond, as set forth in subdivision (d). The deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(ii) The commissioner may release the deposit prior to the passage of the four-year period described in clause (i) upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee subject to the jurisdiction of the commissioner, or a valid assumption agreement under which the liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee subject to the jurisdiction of the commissioner.

(iii) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period described in clause (i) upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit arising out of escrow transactions handled by the depositor. If claims against the deposit are presented to the commissioner, the commissioner may pay a valid claim or claims until the deposit amount is exhausted. If the commissioner has evidence of one or more claims against the depositor, and the depositor is in conservatorship, bankruptcy, or liquidation proceedings, the commissioner may release the deposit to the conservator, trustee, or liquidator. If the depositor is not in conservatorship, bankruptcy or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution to claimants on the deposit.

(d)

(1) The bond provided by a surety insurer pursuant to subdivision (c) naming the underwritten title company as principal obligor or the letter of credit of an issuing bank shall be subject to the following conditions:

(A) The licensee shall faithfully conform to and abide by the provisions of this chapter and all of the rules made by the commissioner under this chapter concerning the conduct of escrow services.

(B) The licensee will honestly and faithfully apply all funds received, and will faithfully and honestly perform all obligations and undertakings under this chapter, concerning the conduct of escrow services.

(2) In determining the liability of the principal and the sureties under the bond, any money recovered to restore any deficiency in the trust shall not be considered as an asset of the liquidation subject to the assessment for the cost of the liquidation.

(3) The surety under the bond, or the issuing bank of a letter of credit, may pay the full amount of its liability thereunder to the commissioner as conservator, liquidator, receiver, or anyone appointed by the commissioner as a conservator, liquidator, or receiver in lieu of payment to the state or persons having a cause of action against the principal of a bond or applicant under a letter of credit, and upon such payment the surety on the bond, or the issuing bank under a letter of credit shall be completely released, discharged, and exonerated from further liability under the bond or letter of credit, as applicable. The conservator, liquidator, or receiver may use the proceeds of the bond, or letter of credit, for any purposes, including the funding of the costs of conservatorship, receivership, or liquidation.

(4) If there is no reasonable or adequate admitted market for surety bonds as required by this section, the commissioner may act pursuant to Section 1763.1 or, for good cause shown, may permit a letter of credit in lieu thereof, and in the amount of the bond or deposit required by this section. In that case, the commissioner may fashion the letter of credit requirements as appropriate to the circumstances and cause.

(e)

(1) On and after July 1, 2016, the commissioner shall promptly release to the depositor, upon application, all escrow-related deposits previously made pursuant to paragraph (2) as that paragraph read on June 30, 2016, if any of the following occurs:

(A) The underwritten title company has provided to the commissioner bond coverage, a deposit, or an approved irrevocable letter of credit as set forth in this subdivision.

(B) Upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the underwritten title company depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(2) Otherwise, the deposit shall be promptly returned to the depositor, its duly appointed trustee in bankruptcy, or its lawful successor in interest upon application for release following the four-year period specified in paragraph (2) of subdivision (c) as that paragraph read on June 30, 2016, unless the commissioner has received claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has received one or more claims against the depositor, and the depositor is not in conservatorship, bankruptcy, or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by the depositor have priority in the distribution over other claims against the depositor.

(f) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. The examination shall be at the expense of the company.

(g)

(1) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with a provision of this section, the commissioner shall make his or her order prohibiting the company from conducting its business for a period of not more than one year.

(2) A company that violates the commissioner's order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1, is guilty of a misdemeanor, and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of the commissioner's order is guilty of a misdemeanor.

(h) The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out these purposes, the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section. The rules and regulations shall be adopted, amended, or repealed in accordance with the procedures provided in Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*.

(i) The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an application for a change of name shall be one hundred eighteen dollars ($ 118). Each company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

(j) This section does not prohibit an underwritten title company from engaging in escrow, settlement, or closing activities on properties located outside this state if those activities do not violate the laws of that other state or country.

(k) This section is operative on July 1, 2016.

SEC. 214.

Section 139.2 of the Labor Code is amended to read:

139.2.

(a) The administrative director shall appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues. The appointments shall be for two-year terms.

(b) The administrative director shall appoint or reappoint as a qualified medical evaluator a physician, as defined in Section 3209.3, who is licensed to practice in this state and who demonstrates that he or she meets the requirements in paragraphs (1), (2), (6), and (7), and, if the physician is a medical doctor, doctor of osteopathy, doctor of chiropractic, or a psychologist, that he or she also meets the applicable requirements in paragraph (3), (4), or (5).

(1) Prior to his or her appointment as a qualified medical evaluator, passes an examination written and administered by the administrative director for the purpose of demonstrating competence in evaluating medical-legal issues in the workers' compensation system. Physicians shall not be required to pass an additional examination as a condition of reappointment. A physician seeking appointment as a qualified medical evaluator on or after January 1, 2001, shall also complete prior to appointment, a course on disability evaluation report writing approved by the administrative director. The administrative director shall specify the curriculum to be covered by disability evaluation report writing courses, which shall include, but is not limited to, 12 or more hours of instruction.

(2) Devotes at least one-third of total practice time to providing direct medical treatment, or has served as an agreed medical evaluator on eight or more occasions in the 12 months prior to applying to be appointed as a qualified medical evaluator.

(3) Is a medical doctor or doctor of osteopathy and meets one of the following requirements:

(A) Is board certified in a specialty by a board recognized by the administrative director and either the Medical Board of California or the Osteopathic Medical Board of California.

(B) Has successfully completed a residency training program accredited by the Accreditation Council for Graduate Medical Education or the osteopathic equivalent.

(C) Was an active qualified medical evaluator on June 30, 2000.

(D) Has qualifications that the administrative director and either the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, both deem to be equivalent to board certification in a specialty.

(4) Is a doctor of chiropractic and has been certified in California workers' compensation evaluation by a provider recognized by the administrative director. The certification program shall include instruction on disability evaluation report writing that meets the standards set forth in paragraph (1).

(5) Is a psychologist and meets one of the following requirements:

(A) Is board certified in clinical psychology by a board recognized by the administrative director.

(B) Holds a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to *Section 2914 of the Business and Professions Code*, from a university or professional school recognized by the administrative director and has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(C) Has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders, and has served as an agreed medical evaluator on eight or more occasions prior to January 1, 1990.

(6) Does not have a conflict of interest as determined under the regulations adopted by the administrative director pursuant to subdivision (o).

(7) Meets any additional medical or professional standards adopted pursuant to paragraph (6) of subdivision (j).

(c) The administrative director shall adopt standards for appointment of physicians who are retired or who hold teaching positions who are exceptionally well qualified to serve as a qualified medical evaluator even though they do not otherwise qualify under paragraph (2) of subdivision (b). A physician whose full-time practice is limited to the forensic evaluation of disability shall not be appointed as a qualified medical evaluator under this subdivision.

(d) The qualified medical evaluator, upon request, shall be reappointed if he or she meets the qualifications of subdivision (b) and meets all of the following criteria:

(1) Is in compliance with all applicable regulations and evaluation guidelines adopted by the administrative director.

(2) Has not had more than five of his or her evaluations that were considered by a workers' compensation administrative law judge at a contested hearing rejected by the workers' compensation administrative law judge or the appeals board pursuant to this section during the most recent two-year period during which the physician served as a qualified medical evaluator. If the workers' compensation administrative law judge or the appeals board rejects the qualified medical evaluator's report on the basis that it fails to meet the minimum standards for those reports established by the administrative director or the appeals board, the workers' compensation administrative law judge or the appeals board, as the case may be, shall make a specific finding to that effect, and shall give notice to the medical evaluator and to the administrative director. Any rejection shall not be counted as one of the five qualifying rejections until the specific finding has become final and time for appeal has expired.

(3) Has completed within the previous 24 months at least 12 hours of continuing education in impairment evaluation or workers' compensation-related medical dispute evaluation approved by the administrative director.

(4)

Has not been terminated, suspended, placed on probation, or otherwise disciplined by the administrative director during his or her most recent term as a qualified medical evaluator.

If the evaluator does not meet any one of these criteria, the administrative director may, in his or her discretion, reappoint or deny reappointment according to regulations adopted by the administrative director. A physician who does not currently meet the requirements for initial appointment or who has been terminated under subdivision (e) because his or her license has been revoked or terminated by the licensing authority shall not be reappointed.

(e) The administrative director may, in his or her discretion, suspend or terminate a qualified medical evaluator during his or her term of appointment without a hearing as provided under subdivision (k) or (l) whenever either of the following conditions occurs:

(1) The evaluator's license to practice in California has been suspended by the relevant licensing authority so as to preclude practice, or has been revoked or terminated by the licensing authority.

(2) The evaluator has failed to timely pay the fee required by the administrative director pursuant to subdivision (n).

(f) The administrative director shall furnish a physician, upon request, with a written statement of its reasons for termination of, or for denying appointment or reappointment as, a qualified medical evaluator. Upon receipt of a specific response to the statement of reasons, the administrative director shall review his or her decision not to appoint or reappoint the physician or to terminate the physician and shall notify the physician of its final decision within 60 days after receipt of the physician's response.

(g) The administrative director shall establish agreements with qualified medical evaluators to ensure the expeditious evaluation of cases assigned to them for comprehensive medical evaluations.

(h)

(1) When requested by an employee or employer pursuant to Section 4062.1, the medical director appointed pursuant to Section 122 shall assign three-member panels of qualified medical evaluators within five working days after receiving a request for a panel. Preference in assigning panels shall be given to cases in which the employee is not represented. If a panel is not assigned within 20 working days, the employee shall have the right to obtain a medical evaluation from any qualified medical evaluator of his or her choice within a reasonable geographic area. The medical director shall use a random selection method for assigning panels of qualified medical evaluators. The medical director shall select evaluators who are specialists of the type requested by the employee. The medical director shall advise the employee that he or she should consult with his or her treating physician prior to deciding which type of specialist to request.

(2) The administrative director shall promulgate a form that shall notify the employee of the physicians selected for his or her panel after a request has been made pursuant to Section 4062.1 or 4062.2. The form shall include, for each physician on the panel, the physician's name, address, telephone number, specialty, number of years in practice, and a brief description of his or her education and training, and shall advise the employee that he or she is entitled to receive transportation expenses and temporary disability for each day necessary for the examination. The form shall also state in a clear and conspicuous location and type: "You have the right to consult with an information and assistance officer at no cost to you prior to selecting the doctor to prepare your evaluation, or you may consult with an attorney. If your claim eventually goes to court, the workers' compensation administrative law judge will consider the evaluation prepared by the doctor you select to decide your claim."

(3) When compiling the list of evaluators from which to select randomly, the medical director shall include all qualified medical evaluators who meet all of the following criteria:

(A) He or she does not have a conflict of interest in the case, as defined by regulations adopted pursuant to subdivision (o).

(B) He or she is certified by the administrative director to evaluate in an appropriate specialty and at locations within the general geographic area of the employee's residence. An evaluator shall not conduct qualified medical evaluations at more than 10 locations.

(C) He or she has not been suspended or terminated as a qualified medical evaluator for failure to pay the fee required by the administrative director pursuant to subdivision (n) or for any other reason.

(4) When the medical director determines that an employee has requested an evaluation by a type of specialist that is appropriate for the employee's injury, but there are not enough qualified medical evaluators of that type within the general geographic area of the employee's residence to establish a three-member panel, the medical director shall include sufficient qualified medical evaluators from other geographic areas and the employer shall pay all necessary travel costs incurred in the event the employee selects an evaluator from another geographic area.

(i) The medical director appointed pursuant to Section 122 shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director

an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations.

(j) After public hearing pursuant to Section 5307.3, the administrative director shall adopt regulations concerning the following issues:

(1)

(A) Standards governing the timeframes within which medical evaluations shall be prepared and submitted by agreed and qualified medical evaluators. Except as provided in this subdivision, the timeframe for initial medical evaluations to be prepared and submitted shall be no more than 30 days after the evaluator has seen the employee or otherwise commenced the medical evaluation procedure. The administrative director shall develop regulations governing the provision of extensions of the 30-day period in both of the following cases:

(i) When the evaluator has not received test results or consulting physician's evaluations in time to meet the 30-day deadline.

(ii) To extend the 30-day period by not more than 15 days when the failure to meet the 30-day deadline was for good cause.

(B) For purposes of subparagraph (A), "good cause" means any of the following:

(i) Medical emergencies of the evaluator or evaluator's family.

(ii) Death in the evaluator's family.

(iii) Natural disasters or other community catastrophes that interrupt the operation of the evaluator's business.

(C) The administrative director shall develop timeframes governing availability of qualified medical evaluators for unrepresented employees under Section 4062.1. These timeframes shall give the employee the right to the addition of a new evaluator to his or her panel, selected at random, for each evaluator not available to see the employee within a specified period of time, but shall also permit the employee to waive this right for a specified period of time thereafter.

(2) Procedures to be followed by all physicians in evaluating the existence and extent of permanent impairment and limitations resulting from an injury in a manner consistent with Sections 4660 and 4660.1.

(3) Procedures governing the determination of any disputed medical treatment issues in a manner consistent with Section 5307.27.

(4) Procedures to be used in determining the compensability of psychiatric injury. The procedures shall be in accordance with Section 3208.3 and shall require that the diagnosis of a mental disorder be expressed using the terminology and criteria of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.

(5) Guidelines for the range of time normally required to perform the following:

(A) A medical-legal evaluation that has not been defined and valued pursuant to Section 5307.6. The guidelines shall establish minimum times for patient contact in the conduct of the evaluations, and shall be consistent with regulations adopted pursuant to Section 5307.6.

(B) Any treatment procedures that have not been defined and valued pursuant to Section 5307.1.

(C) Any other evaluation procedure requested by the Insurance Commissioner, or deemed appropriate by the administrative director.

(6) Any additional medical or professional standards that a medical evaluator shall meet as a condition of appointment, reappointment, or maintenance in the status of a medical evaluator.

(k) Except as provided in this subdivision, the administrative director may, in his or her discretion, suspend or terminate the privilege of a physician to serve as a qualified medical evaluator if the administrative director, after hearing pursuant to subdivision (l), determines, based on substantial evidence, that a qualified medical evaluator:

(1) Has violated any material statutory or administrative duty.

(2) Has failed to follow the medical procedures or qualifications established pursuant to paragraph (2), (3), (4), or (5) of subdivision (j).

(3) Has failed to comply with the timeframe standards established pursuant to subdivision (j).

(4) Has failed to meet the requirements of subdivision (b) or (c).

(5) Has prepared medical-legal evaluations that fail to meet the minimum standards for those reports established by the administrative director or the appeals board.

(6)

Has made material misrepresentations or false statements in an application for appointment or reappointment as a qualified medical evaluator.

A hearing shall not be required prior to the suspension or termination of a physician's privilege to serve as a qualified medical evaluator when the physician has done either of the following:

(A) Failed to timely pay the fee required pursuant to subdivision (n).

(B) Had his or her license to practice in California suspended by the relevant licensing authority so as to preclude practice, or had the license revoked or terminated by the licensing authority.

(l) The administrative director shall cite the qualified medical evaluator for a violation listed in subdivision (k) and shall set a hearing on the alleged violation within 30 days of service of the citation on the qualified medical evaluator. In addition to the authority to terminate or suspend the qualified medical evaluator upon finding a violation listed in subdivision (k), the administrative director may, in his or her discretion, place a qualified medical evaluator on probation subject to appropriate conditions, including ordering continuing education or training. The administrative director shall report to the appropriate licensing board the name of any qualified medical evaluator who is disciplined pursuant to this subdivision.

(m) The administrative director shall terminate from the list of medical evaluators any physician where licensure has been terminated by the relevant licensing board, or who has been convicted of a misdemeanor or felony related to the conduct of his or her medical practice, or of a crime of moral turpitude. The administrative director shall suspend or terminate as a medical evaluator any physician who has been suspended or placed on probation by the relevant licensing board. If a physician is suspended or terminated as a qualified medical evaluator under this subdivision, a report prepared by the physician that is not complete, signed, and furnished to one or more of the parties prior to the date of conviction or action of the licensing board, whichever is earlier, shall not be admissible in any proceeding before the appeals board nor shall there be any liability for payment for the report and any expense incurred by the physician in connection with the report.

(n) A qualified medical evaluator shall pay a fee, as determined by the administrative director, for appointment or reappointment. These fees shall be based on a sliding scale as established by the administrative director. All revenues from fees paid under this subdivision shall be deposited into

the Workers' Compensation Administration Revolving Fund and are available for expenditure upon appropriation by the Legislature, and shall not be used by any other department or agency or for any purpose other than administration of the programs of the Division of Workers' Compensation related to the provision of medical treatment to injured employees.

(o) An evaluator shall not request or accept any compensation or other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under this code. The administrative director, after consultation with the Commission on Health and Safety and Workers' Compensation, shall adopt regulations to implement this subdivision.

SEC. 215.

Section 1720 of the Labor Code is amended to read:

1720.

(a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

(2)

Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. "Public work" does not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether the political subdivision or district operates under a freeholder's charter or not.

(4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(5) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.

(6) Public transportation demonstration projects authorized pursuant to *Section 143 of the Streets and Highways Code*.

(7)

(A) Infrastructure project grants from the California Advanced Services Fund pursuant to *Section 281 of the Public Utilities Code*.

(B) For purposes of this paragraph, the Public Utilities Commission is not the awarding body or the body awarding the contract, as defined in Section 1722.

(b) For purposes of this section, "paid for in whole or in part out of public funds" means all of the following:

(1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.

(2) Performance of construction work by the state or political subdivision in execution of the project.

(3) Transfer by the state or political subdivision of an asset of value for less than fair market price.

(4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.

(5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.

(6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(c) Notwithstanding subdivision (b):

(1) Private residential projects built on private property are not subject to the requirements of this chapter unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority.

(2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(3) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

(4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of *Section 33334.2 of the Health and Safety Code* that are paid for solely with moneys from the Low and Moderate Income Housing Fund established pursuant to *Section 33334.3 of the Health and Safety Code* or that are paid for by a combination of private funds and funds available pursuant to *Section 33334.2 or 33334.3 of the Health and Safety Code* do not constitute a project that is paid for in whole or in part out of public funds.

(5) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the home buyers.

(B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as temporary or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars ($ 25,000).

(C) Assistance is provided to a household as either mortgage assistance, downpayment assistance, or for the rehabilitation of a single-family home.

(D) The project consists of new construction, expansion, or rehabilitation work associated with a facility developed by a nonprofit organization to be operated on a not-for-profit basis

to provide emergency or transitional shelter and ancillary services and assistance to homeless adults and children. The nonprofit organization operating the project shall provide, at no profit, not less than 50 percent of the total project cost from nonpublic sources, excluding real property that is transferred or leased. Total project cost includes the value of donated labor, materials, and architectural and engineering services.

(E) The public participation in the project that would otherwise meet the criteria of subdivision (b) is public funding in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income.

(d) Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

(1) Qualified residential rental projects, as defined by *Section 142(d) of the Internal Revenue Code*, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with *Section 8869.80) of Division 1 of Title 2 of the Government Code* on or before December 31, 2003.

(2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by *Section 143 of the Internal Revenue Code*, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by *Section 25 of the Internal Revenue Code*, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with *Section 8869.80) of Division 1 of Title 2 of the Government Code* on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to *Section 42 of the Internal Revenue Code*, Chapter 3.6 (commencing with *Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code*, or *Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code*, on or before December 31, 2003.

(e) Notwithstanding paragraph (1) of subdivision (a), construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project for the purposes of this chapter.

(f) If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.

(g) For purposes of this section, references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended, and include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

(h) The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

SEC. 216.

Section 2750.8 of the Labor Code is amended to read:

2750.8.

(a) The Labor Commissioner and the Employment Development Department shall administer the Motor Carrier Employer Amnesty Program pursuant to which, notwithstanding any law, an eligible motor carrier performing drayage services at any port shall be relieved of liability for statutory or civil penalties associated with the misclassification of commercial drivers as independent

contractors, as provided by this program, if the eligible motor carrier executes a settlement agreement with the Labor Commissioner whereby the eligible motor carrier agrees to, among other things, properly classify all of its commercial drivers as employees.

(b) As used in this section, the following terms shall have the following meanings:

(1) "Commercial driver" means a person who holds a valid commercial driver's license who is hired or contracted to provide port drayage services.

(2) "Department" means the Employment Development Department.

(3) "Eligible motor carrier" means a motor carrier that shall not have any of the following on the date it applies to participate in the program:

(A) A civil lawsuit that was filed on or before December 31, 2015, pending against it in a state or federal court that alleges or involves a misclassification of a commercial driver.

(B) A penalty assessed by the department pursuant to *Section 1128 of the Unemployment Insurance Code* that is final imposition of that penalty.

(4) "Motor carrier" means a registered owner, lessee, licensee, or bailee of a commercial motor vehicle, as set forth in subdivision (b) of *Section 15210 of the Vehicle Code*, that operates or directs the operation of a commercial motor vehicle on a for-hire or not-for-hire basis to perform port drayage services.

(5) "Port" means any sea or river port located in this state.

(6) "Program" means the Motor Carrier Employer Amnesty Program established by this section and as provided by Article 8.6 (commencing with *Section 1160) of Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code*.

(c)

(1) A motor carrier shall only apply to participate in the program by doing all of the following:

(A) Submit an application to the Labor Commissioner, on a form provided by the Labor Commissioner. The application shall, at a minimum, require the motor carrier to establish it qualifies as an eligible motor carrier.

(B) Report on the results of a self-audit in accordance with the guidelines provided by the Labor Commissioner.

(2) A motor carrier that voluntarily or as a result of a final disposition in a civil proceeding reclassified its commercial drivers as employees on or before January 1, 2016, shall, in addition to other information requested by the Labor Commissioner, also submit with its application all of the following:

(A) Documentation demonstrating that the motor carrier reclassified its commercial drivers as employees, including the commencement period applicable to the reclassification.

(B) The identification of each commercial driver reclassified in the documents provided in subparagraph (A), the amounts paid to each commercial driver to compensate for the previous misclassification, and the time period applicable to the amount paid to each commercial driver prior to reclassification.

(C) A report of a self-audit for all commercial drivers reclassified by the motor carrier identified in subparagraphs (A) and (B), and also include a separate self-audit report for any commercial driver who is subject to reclassification, but is not identified in subparagraph (B).

(3) A proceeding or action against a motor carrier pursuant to Sections 2698 to 2699.5, inclusive, shall not be initiated after the motor carrier has submitted an application for participation in the program, but may be initiated if the motor carrier's application is denied.

(4) If a motor carrier's application to participate in the program is denied by the Labor Commissioner, the application or its submission shall not be considered an acknowledgment or admission by the motor carrier that it misclassified its commercial drivers as independent contractors, and the application or its submission shall not be construed in any way to support an evidentiary inference that the motor carrier failed to properly classify its commercial drivers as employees.

(d) The Labor Commissioner shall analyze the information provided pursuant to paragraph (2) of subdivision (c) for the purpose of evaluating the scope of a prior reclassification of an eligible motor carrier's commercial drivers to employees and has discretionary authority to determine whether the scope was sufficient to afford relief to the misclassified commercial drivers.

(e) Before January 1, 2017, the Labor Commissioner, with the cooperation and consent of the department, may negotiate and execute a settlement agreement with an eligible motor carrier pursuant to the program that applied to participate in the program. The Labor Commissioner shall not execute a settlement agreement on or after January 1, 2017.

(f) Prior to the Labor Commissioner executing a settlement agreement, an eligible motor carrier shall file its contribution returns and report unreported wages and taxes for the time period it seeks relief under the settlement agreement.

(g) A settlement agreement executed by the Labor Commissioner and an eligible motor carrier pursuant to the program shall require an eligible motor carrier to do all of the following:

(1) Pay all wages, benefits, and taxes owed, if any, to or in relation to all of its commercial drivers reclassified from independent contractors to employees for the period of time from the first date of misclassification to the date the settlement agreement is executed, but not exceeding the applicable statute of limitations.

(2) Maintain any converted commercial driver positions as employee positions.

(3) Consent that any future commercial drivers hired to perform the same or similar duties as those employees converted pursuant to the settlement agreement shall be presumed to have employee status and that the eligible motor carrier shall have the burden to prove by clear and convincing evidence that they are not employees in any administrative or judicial proceeding in which their employment status is an issue.

(4) Immediately after the execution of the settlement agreement, secure the workers' compensation coverage that is legally required for the commercial drivers who were reclassified as employees, effective on or before the date the settlement agreement is executed.

(5) Provide the Labor Commissioner and the department with proof of workers' compensation insurance coverage in compliance with paragraph (4) within five days of securing the coverage.

(6) Pay the costs authorized by subdivision (h), if required.

(7) Perform any other requirements or provisions the Labor Commissioner and the department deem necessary to carry out the intent of this section, the program, or to enforce the settlement agreement.

(h) A settlement agreement may require an eligible motor carrier to pay the reasonable, actual costs of the Labor Commissioner and the department for their respective review, approval, and compliance monitoring of the settlement agreement. The costs shall be deposited into the Labor Enforcement and Compliance Fund. The portion of the costs attributable to the department shall be transferred to the department upon appropriation by the Legislature.

(i) The settlement agreement may include provisions for an eligible motor carrier to make installment payments of amounts due pursuant to paragraphs (1) and (6) of subdivision (g) in lieu of a full payment. An installment payment agreement shall be included within the settlement

agreement and charge interest on the outstanding amounts due at the rate prescribed in *Sections 1113 and 1129 of the Unemployment Insurance Code*. Interest on amounts due shall be charged from the day after the date the settlement agreement is executed. The settlement agreement shall contain a provision that if a motor carrier fails, without good cause, to fully comply with terms of the settlement agreement authorizing installment payments, the settlement agreement shall be null and void and the total amount of tax, interest, and penalties for the time period covered by the settlement agreement shall be immediately due and payable.

(j) The Labor Commissioner and the department may share any information necessary to carry out the program. Sharing information pursuant to this subdivision shall not constitute a waiver of any applicable confidentiality requirements and the party receiving the information shall be subject to any existing confidentiality requirements for that information.

(k)

(1) Notwithstanding any other law and pursuant to the program, an eligible motor carrier that executed and performed its obligations pursuant to a settlement agreement shall not be liable, and the Labor Commissioner or the department shall not enforce, any civil or statutory penalties, including, but not limited to, remedies available under subdivision (e) of Section 226, that might have become due and payable for the time period covered by the settlement agreement, except for the following penalties:

(A) A penalty charged under *Section 1128 of the Unemployment Insurance Code* that is final on the date of the settlement agreement is executed, unless the penalty is reversed by the California Unemployment Insurance Appeals Board.

(B) A penalty for an amount an eligible motor carrier admitted was based on fraud or made with the intent to evade the reporting requirements set forth in this division or authorized regulations.

(C) A penalty based on a violation of this division or Division 6 (commencing with *Section 13000) of the Unemployment Insurance Code* and either of the following:

(i) The eligible motor carrier was on notice of a criminal investigation due to a complaint having been filed or by written notice having been mailed to the eligible motor carrier informing the motor carrier that it is under criminal investigation.

(ii) A criminal court proceeding has already been initiated against the eligible motor carrier.

(2)

(A) Notwithstanding any other law and pursuant to the program, an eligible motor carrier that executed and performed its obligations pursuant to a settlement agreement shall not be liable, and the Labor Commissioner or the department shall not enforce, any unpaid penalties, and interest owed on unpaid penalties, on or before the date the settlement agreement was executed, pursuant to *Sections 1112.5, 1126, and 1127 of the Unemployment Insurance Code* for the tax reporting periods for which the settlement agreement is applicable, that are owed as a result of the nonpayment of tax liabilities due to the misclassification of one or more commercial drivers as independent contractors and the reclassification of these commercial drivers as employees, except that penalties, and interest owed on penalties, established as a result of an assessment issued by the department before the date the settlement agreement was executed shall not be waived pursuant to the program.

(B) For purposes of paragraph (1), state personal income taxes required to be withheld by *Section 13020 of the Unemployment Insurance Code* and owed by the motor carrier pursuant to *Section 13070 of the Unemployment Insurance Code* shall not be collected, if the eligible motor carrier issued an information return pursuant to *Section 6041A of the*

Internal Revenue Code reporting payment or if the commercial driver certifies that the state personal tax has been paid or that he or she has reported to the Franchise Tax Board the payment against which the state personal income tax would have been imposed.

(3) A refund or credit for any penalty or interest paid prior to the date an eligible motor carrier applied to participate in the program shall not be granted.

(4) Except for violations described in *Section 2119 of the Unemployment Insurance Code*, the department shall not bring a criminal action for failing to report tax liabilities against an eligible motor carrier that executed and performed its obligations pursuant to a settlement agreement for the tax reporting periods subject to the settlement agreement.

(l) The statute of limitations on any claim or liability that might have been asserted against a motor carrier based on the motor carrier having misclassified a commercial driver as an independent contractor shall be tolled from the date a motor carrier applies for participation in the program through the date the Labor Commissioner either denies the motor carrier participation in the program or the motor carrier, as an eligible motor carrier, has failed to perform an obligation under the settlement agreement, whichever is later.

(m) The recovery obtained by the Labor Commissioner on behalf of a reclassified commercial driver pursuant to a settlement agreement shall be tendered to the commercial driver on the condition that the commercial driver shall execute a release of all claims the commercial driver may have against the eligible motor carrier based on the eligible motor carrier's failure to classify the commercial driver as an employee. A commercial driver shall not be under any obligation to accept the terms of a settlement agreement. If a commercial driver declines to accept the terms of a settlement agreement, the commercial driver shall not be bound by the settlement agreement, except that the eligible motor carrier shall still reclassify the commercial driver as an employee and that commercial driver shall be precluded from pursuing a claim for civil penalties or statutory penalties covered by the period of time covered by the settlement agreement. If a commercial driver does not accept the terms of a settlement agreement, the motor carrier shall be excused from performing its requirement under the settlement agreement to pay the amount acknowledged in the settlement agreement to be due to that commercial driver.

(n)

(1) If the Labor Commissioner determines an eligible motor carrier violated or failed to perform any of its obligations under a settlement agreement, the Labor Commissioner may file a civil action to enforce the settlement agreement.

(2)

(A) If the Labor Commissioner files a civil action seeking only recovery of the amounts due to commercial drivers under the settlement agreement, the Labor Commissioner may obtain judicial enforcement by filing a petition for entry of judgment for the liabilities due and remaining pursuant to the settlement agreement.

(B) After filing a petition pursuant to subparagraph (A), the Labor Commissioner may file an application for an order to show cause and serve it on the eligible motor carrier. Within 60 days of the date the Labor Commissioner filed the order to show cause, the court shall hold a hearing and enter a judgment. The judgment shall be in amounts which are due and owing to commercial drivers pursuant to the settlement agreement with credits, if any, for applicable payments the eligible motor carrier made under the settlement agreement. A judgment entered pursuant to this paragraph shall not preclude subsequent action to recover civil penalties or statutory penalties by the Labor Commissioner, or by an employee pursuant to Sections 2698 to 2699.5, inclusive.

(3) If the court determines in any action filed by the Labor Commissioner that a motor carrier has violated or otherwise failed to perform any of its obligations under a settlement agreement, the court shall award the Labor Commissioner costs and reasonable attorney's fees.

SEC. 217.

Section 3503 of the Labor Code is amended to read:

3503. A person is not a dependent of a deceased employee unless in good faith a member of the family or household of the employee, or unless the person bears to the employee the relation of husband or wife, child, posthumous child, adopted child or stepchild, grandchild, father or mother, father-in-law or mother-in-law, grandfather or grandmother, brother or sister, uncle or aunt, brother-in-law or sister-in-law, or nephew or niece.

SEC. 218.

Section 4663 of the Labor Code is amended to read:

4663.

(a) Apportionment of permanent disability shall be based on causation.

(b) A physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury shall address in that report the issue of causation of the permanent disability.

(c) In order for a physician's report to be considered complete on the issue of permanent disability, the report must include an apportionment determination. A physician shall make an apportionment determination by finding what approximate percentage of the permanent disability was caused by the direct result of injury arising out of and occurring in the course of employment and what approximate percentage of the permanent disability was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. If the physician is unable to include an apportionment determination in his or her report, the physician shall state the specific reasons why the physician could not make a determination of the effect of that prior condition on the permanent disability arising from the injury. The physician shall then consult with other physicians or refer the employee to another physician from whom the employee is authorized to seek treatment or evaluation in accordance with this division in order to make the final determination.

(d) An employee who claims an industrial injury shall, upon request, disclose all previous permanent disabilities or physical impairments.

(e) Subdivisions (a), (b), and (c) do not apply to injuries or illnesses covered under Sections 3212, 3212.1, 3212.2, 3212.3, 3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10, 3212.11, 3212.12, 3213, and 3213.2.

SEC. 219.

Section 451 of the Military and Veterans Code is amended to read:

451.

(a) The constitution and jurisdiction of general courts-martial, special courts-martial, summary courts-martial, and courts of inquiry, the form and manner in which the proceedings are conducted and recorded, the forms of oaths and affirmations taken in the administration of military law by such courts, the limits of punishment, and the proceedings in the revision thereof, shall be governed by the terms of the laws and regulations governing the United States Army, Air Force, or Navy, and

the law and procedure of similar courts of the United States Army, Air Force, or Navy, except as otherwise provided in this chapter.

(b) The Uniform Code of Military Justice, and the rules and regulations published thereunder, shall govern and be applicable to the active militia, including the California National Guard, except as otherwise provided in this code, the California Manual for Courts-Martial, or other regulations as adopted by the Governor or Adjutant General.

SEC. 220.

Section 136.2 of the Penal Code is amended to read:

136.2.

(a)

(1) Upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, a court with jurisdiction over a criminal matter may issue orders, including, but not limited to, the following:

(A) An order issued pursuant to *Section 6320 of the Family Code*.

(B) An order that a defendant shall not violate any provision of Section 136.1.

(C) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, shall not violate any provision of Section 136.1.

(D) An order that a person described in this section shall have no communication whatsoever with a specified witness or a victim, except through an attorney under reasonable restrictions that the court may impose.

(E) An order calling for a hearing to determine if an order as described in subparagraphs (A) to (D), inclusive, should be issued.

(F)

(i) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or a witness, or both, or for immediate family members of a victim or a witness who reside in the same household as the victim or witness or within reasonable proximity of the victim's or witness' household, as determined by the court. The order shall not be made without the consent of the law enforcement agency except for limited and specified periods of time and upon an express finding by the court of a clear and present danger of harm to the victim or witness or immediate family members of the victim or witness.

(ii) For purposes of this paragraph, "immediate family members" include the spouse, children, or parents of the victim or witness.

(G)

(i) An order protecting a victim or witness of violent crime from all contact by the defendant, or contact, with the intent to annoy, harass, threaten, or commit acts of violence, by the defendant. The court or its designee shall transmit orders made under this paragraph to law enforcement personnel within one business day of the issuance, modification, extension, or termination of the order, pursuant to subdivision (a) of *Section 6380 of the Family Code*. It is the responsibility of the court to transmit the modification, extension, or termination orders made under this paragraph to the same agency that entered the original protective order into the Domestic Violence Restraining Order System.

(ii)

(I) If a court does not issue an order pursuant to clause (i) in a case in which the defendant is charged with a crime involving domestic violence as defined in Section 13700 or in *Section 6211 of the Family Code*, the court on its own motion shall consider issuing a protective order upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, that provides as follows:

(ia) The defendant shall not own, possess, purchase, receive, or attempt to purchase or receive, a firearm while the protective order is in effect.

(ib) The defendant shall relinquish any firearms that he or she owns or possesses pursuant to *Section 527.9 of the Code of Civil Procedure.*

(II) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm while this protective order is in effect is punishable pursuant to Section 29825.

(iii) An order issued, modified, extended, or terminated by a court pursuant to this subparagraph shall be issued on forms adopted by the Judicial Council of California that have been approved by the Department of Justice pursuant to subdivision (i) of *Section 6380 of the Family Code*. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(iv) A protective order issued under this subparagraph may require the defendant to be placed on electronic monitoring if the local government, with the concurrence of the county sheriff or the chief probation officer with jurisdiction, adopts a policy to authorize electronic monitoring of defendants and specifies the agency with jurisdiction for this purpose. If the court determines that the defendant has the ability to pay for the monitoring program, the court shall order the defendant to pay for the monitoring. If the court determines that the defendant does not have the ability to pay for the electronic monitoring, the court may order electronic monitoring to be paid for by the local government that adopted the policy to authorize electronic monitoring. The duration of electronic monitoring shall not exceed one year from the date the order is issued. At no time shall the electronic monitoring be in place if the protective order is not in place.

(2) For purposes of this subdivision, a minor who was not a victim of, but who was physically present at the time of, an act of domestic violence, is a witness and is deemed to have suffered harm within the meaning of paragraph (1).

(b) A person violating an order made pursuant to subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision (a) may be punished for any substantive offense described in Section 136.1, or for a contempt of the court making the order. A finding of contempt shall not be a bar to prosecution for a violation of Section 136.1. However, a person so held in contempt shall be entitled to credit for punishment imposed therein against a sentence imposed upon conviction of an offense described in Section 136.1. A conviction or acquittal for a substantive offense under Section 136.1 shall be a bar to a subsequent punishment for contempt arising out of the same act.

(c)

(1)

(A) Notwithstanding subdivision (e), an emergency protective order issued pursuant to Chapter 2 (commencing with *Section 6250) of Part 3 of Division 10 of the Family Code* or Section 646.91 shall have precedence in enforcement over any other restraining or protective order, provided the emergency protective order meets all of the following requirements:

(i) The emergency protective order is issued to protect one or more individuals who are already protected persons under another restraining or protective order.

(ii) The emergency protective order restrains the individual who is the restrained person in the other restraining or protective order specified in clause (i).

(iii) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in clause (i).

(B) An emergency protective order that meets the requirements of subparagraph (A) shall have precedence in enforcement over the provisions of any other restraining or protective order only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained person.

(2) Except as described in paragraph (1), a no-contact order, as described in *Section 6320 of the Family Code*, shall have precedence in enforcement over any other restraining or protective order.

(d)

(1) A person subject to a protective order issued under this section shall not own, possess, purchase, or receive, or attempt to purchase or receive, a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to *Section 527.9 of the Code of Civil Procedure.*

(3) A person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm while the protective order is in effect is punishable pursuant to Section 29825.

(e)

(1) In all cases in which the defendant is charged with a crime involving domestic violence, as defined in Section 13700 or in *Section 6211 of the Family Code*, or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court shall consider issuing the above-described orders on its own motion. All interested parties shall receive a copy of those orders. In order to facilitate this, the court's records of all criminal cases involving domestic violence or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, shall be marked to clearly alert the court to this issue.

(2) In those cases in which a complaint, information, or indictment charging a crime involving domestic violence, as defined in Section 13700 or in *Section 6211 of the Family Code*, or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, has been issued, except as described in subdivision (c), a restraining order or protective order against the defendant issued by the criminal court in that case has precedence in enforcement over a civil court order against the defendant.

(3) Custody and visitation with respect to the defendant and his or her minor children may be ordered by a family or juvenile court consistent with the protocol established pursuant to subdivision (f), but if ordered after a criminal protective order has been issued pursuant to this section, the custody and visitation order shall make reference to, and, if there is not an emergency protective order that has precedence in enforcement pursuant to paragraph (1) of subdivision (c), or a no-contact order, as described in *Section 6320 of the Family Code*, acknowledge the precedence of enforcement of, an appropriate criminal protective order. On or

before July 1, 2014, the Judicial Council shall modify the criminal and civil court forms consistent with this subdivision.

(f) On or before January 1, 2003, the Judicial Council shall promulgate a protocol, for adoption by each local court in substantially similar terms, to provide for the timely coordination of all orders against the same defendant and in favor of the same named victim or victims. The protocol shall include, but shall not be limited to, mechanisms for ensuring appropriate communication and information sharing between criminal, family, and juvenile courts concerning orders and cases that involve the same parties, and shall permit a family or juvenile court order to coexist with a criminal court protective order subject to the following conditions:

(1) An order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a “no-contact order” issued by a criminal court.

(2) Safety of all parties shall be the courts’ paramount concern. The family or juvenile court shall specify the time, day, place, and manner of transfer of the child, as provided in *Section 3100 of the Family Code*.

(g) On or before January 1, 2003, the Judicial Council shall modify the criminal and civil court protective order forms consistent with this section.

(h)

(1) In any case in which a complaint, information, or indictment charging a crime involving domestic violence, as defined in Section 13700 or in *Section 6211 of the Family Code*, has been filed, the court may consider, in determining whether good cause exists to issue an order under subparagraph (A) of paragraph (1) of subdivision (a), the underlying nature of the offense charged, and the information provided to the court pursuant to Section 273.75.

(2) In any case in which a complaint, information, or indictment charging a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, has been filed, the court may consider, in determining whether good cause exists to issue an order under paragraph (1) of subdivision (a), the underlying nature of the offense charged, the defendant’s relationship to the victim, the likelihood of continuing harm to the victim, any current restraining order or protective order issued by any civil or criminal court involving the defendant, and the defendant’s criminal history, including, but not limited to, prior convictions for a violation of Section 261, 261.5, or 262, a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, any other forms of violence, or any weapons offense.

(i)

(1) In all cases in which a criminal defendant has been convicted of a crime involving domestic violence as defined in Section 13700 or in *Section 6211 of the Family Code*, a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court, at the time of sentencing, shall consider issuing an order restraining the defendant from any contact with the victim. The order may be valid for up to 10 years, as determined by the court. This protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail or subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation. It is the intent of the Legislature in enacting this subdivision that the duration of any restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family.

(2) An order under this subdivision may include provisions for electronic monitoring if the local government, upon receiving the concurrence of the county sheriff or the chief probation officer

with jurisdiction, adopts a policy authorizing electronic monitoring of defendants and specifies the agency with jurisdiction for this purpose. If the court determines that the defendant has the ability to pay for the monitoring program, the court shall order the defendant to pay for the monitoring. If the court determines that the defendant does not have the ability to pay for the electronic monitoring, the court may order the electronic monitoring to be paid for by the local government that adopted the policy authorizing electronic monitoring. The duration of the electronic monitoring shall not exceed one year from the date the order is issued.

(j) For purposes of this section, “local government” means the county that has jurisdiction over the protective order.

SEC. 221.

Section 186.2 of the Penal Code is amended to read:

186.2.

For purposes of this chapter, the following definitions apply:

(a) “Criminal profiteering activity” means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487 or subdivision (a) of Section 487a.

(17) Trafficking in controlled substances, as defined in *Sections 11351, 11352, and 11353 of the Health and Safety Code*.

(18) Violation of the laws governing corporate securities, as defined in *Section 25541 of the Corporations Code*.

(19) Offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 550.

(21) False or fraudulent activities, schemes, or artifices, as described in *Section 14107 of the Welfare and Institutions Code*.

(22) Money laundering, as defined in Section 186.10.

(23) Offenses relating to the counterfeit of a registered mark, as specified in Section 350, or offenses relating to piracy, as specified in Section 653w.

(24) Offenses relating to the unauthorized access to computers, computer systems, and computer data, as specified in Section 502.

(25) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(26) Subdivision (a) of Section 186.22, or a felony subject to enhancement as specified in subdivision (b) of Section 186.22.

(27) Offenses related to fraud or theft against the state's beverage container recycling program, including, but not limited to, those offenses specified in this subdivision and those criminal offenses specified in the California Beverage Container Recycling and Litter Reduction Act, commencing at *Section 14500 of the Public Resources Code*.

(28) Human trafficking, as defined in Section 236.1.

(29) Any crime in which the perpetrator induces, encourages, or persuades a person under 18 years of age to engage in a commercial sex act. For purposes of this paragraph, a commercial sex act means any sexual conduct on account of which anything of value is given or received by any person.

(30) Any crime in which the perpetrator, through force, fear, coercion, deceit, violence, duress, menace, or threat of unlawful injury to the victim or to another person, causes a person under 18 years of age to engage in a commercial sex act. For purposes of this paragraph, a commercial sex act means any sexual conduct on account of which anything of value is given or received by any person.

(31) Theft of personal identifying information, as defined in Section 530.5.

(32) Offenses involving the theft of a motor vehicle, as specified in *Section 10851 of the Vehicle Code*.

(33) Abduction or procurement by fraudulent inducement for prostitution, as defined in Section 266a.

(34) Offenses relating to insurance fraud, as specified in *Sections 2106, 2108, 2109, 2110, 2110.3, 2110.5, 2110.7, and 2117 of the Unemployment Insurance Code*.

(b)

(1) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this chapter, that meet the following requirements:

(A) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(B) Are not isolated events.

(C) Were committed as a criminal activity of organized crime.

(2) Acts that would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods or services such as narcotics, prostitution, pimping and pandering, loan-sharking, counterfeiting of a registered mark in violation of Section 350, the piracy of a recording or audiovisual work in violation of Section 653w, gambling, and pornography, or that, through planning and coordination of individual efforts, seeks to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, fraud against the beverage container recycling program, embezzlement, securities fraud, insurance fraud in violation of the provisions listed in paragraph (34) of subdivision (a), grand theft, money laundering, forgery, or systematically encumbering the assets of a business for the purpose of defrauding creditors. "Organized crime" also means crime committed by a criminal street gang, as defined in subdivision (f) of Section 186.22. "Organized crime" also means false or fraudulent activities, schemes, or artifices, as described in *Section 14107 of the Welfare and Institutions Code*, and the theft of personal identifying information, as defined in Section 530.5.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 222.

Section 186.11 of the Penal Code is amended to read:

186.11.

(a)

(1) Any person who commits two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than one hundred thousand dollars ($ 100,000), shall be punished, upon conviction of two or more felonies in a single criminal proceeding, in addition and consecutive to the punishment prescribed for the felony offenses of which he or she has been convicted, by an additional term of imprisonment in the state prison as specified in paragraph (2) or (3). This enhancement shall be known as the aggravated white collar crime enhancement. The aggravated white collar crime enhancement shall only be imposed once in a single criminal proceeding. For purposes of this section, "pattern of related felony conduct" means engaging in at least two felonies that have the same or similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics, and that are not isolated events. For purposes of this section, "two or more related felonies" means felonies committed against two or more separate victims, or against the same victim on two or more separate occasions.

(2) If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than five hundred thousand dollars ($ 500,000), the additional term of punishment shall be two, three, or five years in the state prison.

(3) If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than one hundred thousand dollars ($ 100,000), but not more than five hundred thousand dollars ($ 500,000), the additional term of punishment shall be the term specified in paragraph (1) or (2) of subdivision (a) of Section 12022.6.

(b)

(1) The additional prison term and penalties provided for in subdivisions (a), (c), and (d) shall not be imposed unless the facts set forth in subdivision (a) are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(2) The additional prison term provided in paragraph (2) of subdivision (a) shall be in addition to any other punishment provided by law, including Section 12022.6, and shall not be limited by any other provision of law.

(c) Any person convicted of two or more felonies, as specified in subdivision (a), shall also be liable for a fine not to exceed five hundred thousand dollars ($ 500,000) or double the value of the taking, whichever is greater, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. However, if the pattern of related felony conduct involves the taking of more than one hundred thousand dollars ($ 100,000), but not more than five hundred thousand dollars ($ 500,000), the fine shall not exceed one hundred thousand dollars ($ 100,000) or double the value of the taking, whichever is greater.

(d)

(1) If a person is alleged to have committed two or more felonies, as specified in subdivision (a), and the aggravated white collar crime enhancement is also charged, or a person is charged in an accusatory pleading with a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000), and an allegation as to the existence of those facts, any asset or property that is in the control of that person, and any asset or property that has been transferred by that person to a third party, subsequent to the commission of any criminal act alleged pursuant to subdivision (a), other than in a bona fide purchase, whether found within or outside the state, may be preserved by the superior court in order to pay restitution and fines. Upon conviction of two or more felonies, as specified in subdivision (a), or a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000), this property may be levied upon by the superior court to pay restitution and fines if the existence of facts that would make the person subject to the aggravated white collar crime enhancement or that demonstrate the taking or loss of more than one hundred thousand dollars ($ 100,000) in the commission of a felony, a material element of which is fraud or embezzlement, have been charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(2) To prevent dissipation or secreting of assets or property, the prosecuting agency may, at the same time as or subsequent to the filing of a complaint or indictment charging two or more felonies, as specified in subdivision (a), and the enhancement specified in subdivision (a), or a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000), and an allegation as to the existence of those facts, file a petition with the criminal division of the superior court of the county in which the accusatory pleading was filed, seeking a temporary restraining order, preliminary injunction, the appointment of a receiver, or any other protective relief necessary to preserve the property or assets. This petition shall commence a proceeding that shall be pendent to the criminal proceeding and maintained solely to affect the criminal remedies provided for in this section. The proceeding shall not be subject to or governed by the provisions of the Civil Discovery Act as set forth in Title 4 (commencing with *Section 2016.010) of Part 4 of the Code of Civil Procedure.* The petition shall allege that the defendant has been charged with two or more felonies, as specified in subdivision (a), and is subject to the aggravated white collar crime enhancement specified in subdivision (a) or that the defendant has been charged with a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000), and an allegation as to the existence of those

facts. The petition shall identify that criminal proceeding and the assets and property to be affected by an order issued pursuant to this section.

(3) A notice regarding the petition shall be provided, by personal service or registered mail, to every person who may have an interest in the property specified in the petition. Additionally, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property affected by an order issued pursuant to this section is located. The notice shall state that any interested person may file a verified claim with the superior court stating the nature and amount of their claimed interest. The notice shall set forth the time within which a claim of interest in the protected property is required to be filed.

(4) If the property to be preserved is real property, the prosecuting agency shall record, at the time of filing the petition, a lis pendens in each county in which the real property is situated which specifically identifies the property by legal description, the name of the owner of record as shown on the latest equalized assessment roll, and the assessor's parcel number.

(5) If the property to be preserved are assets under the control of a banking or financial institution, the prosecuting agency, at the time of the filing of the petition, may obtain an order from the court directing the banking or financial institution to immediately disclose the account numbers and value of the assets of the accused held by the banking or financial institution. The prosecuting agency shall file a supplemental petition, specifically identifying which banking or financial institution accounts shall be subject to a temporary restraining order, preliminary injunction, or other protective remedy.

(6) Any person claiming an interest in the protected property may, at any time within 30 days from the date of the first publication of the notice of the petition, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating the nature and amount of his or her interest in the property or assets. A verified copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate.

(7) The imposition of fines and restitution pursuant to this section shall be determined by the superior court in which the underlying criminal offense is sentenced. Any judge who is assigned to the criminal division of the superior court in the county where the petition is filed may issue a temporary restraining order in conjunction with, or subsequent to, the filing of an allegation pursuant to this section. Any subsequent hearing on the petition shall also be heard by a judge assigned to the criminal division of the superior court in the county in which the petition is filed. At the time of the filing of an information or indictment in the underlying criminal case, any subsequent hearing on the petition shall be heard by the superior court judge assigned to the underlying criminal case.

(e) Concurrent with or subsequent to the filing of the petition, the prosecuting agency may move the superior court for, and the superior court may issue, the following pendente lite orders to preserve the status quo of the property alleged in the petition:

(1) An injunction to restrain any person from transferring, encumbering, hypothecating, or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved. The court may order that a receiver appointed pursuant to this section shall be compensated for all reasonable expenditures made or incurred by him or her in connection with the possession, care, management, and operation of any property or assets that are subject to the provisions of this section.

(3) A bond or other undertaking, in lieu of other orders, of a value sufficient to ensure the satisfaction of restitution and fines imposed pursuant to this section.

(f)

(1) No preliminary injunction may be granted or receiver appointed by the court without notice that meets the requirements of paragraph (3) of subdivision (d) to all known and reasonably ascertainable interested parties and upon a hearing to determine that an order is necessary to preserve the property pending the outcome of the criminal proceedings. A temporary restraining order may be issued by the court, ex parte, pending that hearing in conjunction with or subsequent to the filing of the petition upon the application of the prosecuting attorney. The temporary restraining order may be based upon the sworn declaration of a peace officer with personal knowledge of the criminal investigation that establishes probable cause to believe that aggravated white collar crime or a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000) has taken place and that the amount of restitution and fines exceeds or equals the worth of the assets subject to the temporary restraining order. The declaration may include the hearsay statements of witnesses to establish the necessary facts. The temporary restraining order may be issued without notice upon a showing of good cause to the court.

(2) The defendant, or a person who has filed a verified claim as provided in paragraph (6) of subdivision (d), shall have the right to have the court conduct an order to show cause hearing within 10 days of the service of the request for hearing upon the prosecuting agency, in order to determine whether the temporary restraining order should remain in effect, whether relief should be granted from any lis pendens recorded pursuant to paragraph (4) of subdivision (d), or whether any existing order should be modified in the interests of justice. Upon a showing of good cause, the hearing shall be held within two days of the service of the request for hearing upon the prosecuting agency.

(3) In determining whether to issue a preliminary injunction or temporary restraining order in a proceeding brought by a prosecuting agency in conjunction with or subsequent to the filing of an allegation pursuant to this section, the court has the discretion to consider any matter that it deems reliable and appropriate, including hearsay statements, in order to reach a just and equitable decision. The court shall weigh the relative degree of certainty of the outcome on the merits and the consequences to each of the parties of granting the interim relief. If the prosecution is likely to prevail on the merits and the risk of the dissipation of assets outweighs the potential harm to the defendants and the interested parties, the court shall grant injunctive relief. The court shall give significant weight to the following factors:

(A) The public interest in preserving the property or assets pendente lite.

(B) The difficulty of preserving the property or assets pendente lite where the underlying alleged crimes involve issues of fraud and moral turpitude.

(C) The fact that the requested relief is being sought by a public prosecutor on behalf of alleged victims of white collar crimes.

(D) The likelihood that substantial public harm has occurred where aggravated white collar crime is alleged to have been committed.

(E) The significant public interest involved in compensating the victims of white collar crime and paying court-imposed restitution and fines.

(4) The court, in making its orders, may consider a defendant’s request for the release of a portion of the property affected by this section in order to pay reasonable legal fees in connection with the criminal proceeding, any necessary and appropriate living expenses pending trial and sentencing, and for the purpose of posting bail. The court shall weigh the needs of the public to retain the property against the needs of the defendant to a portion of the property. The court shall consider the factors listed in paragraph (3) prior to making any order releasing property for these purposes.

(5) The court, in making its orders, shall seek to protect the interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(6) Any petition filed pursuant to this section is part of the criminal proceedings for purposes of appointment of counsel and shall be assigned to the criminal division of the superior court of the county in which the accusatory pleading was filed.

(7) Based upon a noticed motion brought by the receiver appointed pursuant to paragraph (2) of subdivision (e), the court may order an interlocutory sale of property named in the petition when the property is liable to perish, to waste, or to be significantly reduced in value, or when the expenses of maintaining the property are disproportionate to the value thereof. The proceeds of the interlocutory sale shall be deposited with the court or as directed by the court pending determination of the proceeding pursuant to this section.

(8) The court may make any orders that are necessary to preserve the continuing viability of any lawful business enterprise that is affected by the issuance of a temporary restraining order or preliminary injunction issued pursuant to this action.

(9) In making its orders, the court shall seek to prevent any asset subject to a temporary restraining order or preliminary injunction from perishing, spoiling, going to waste, or otherwise being significantly reduced in value. Where the potential for diminution in value exists, the court shall appoint a receiver to dispose of or otherwise protect the value of the property or asset.

(10) A preservation order shall not be issued against any assets of a business that are not likely to be dissipated and that may be subject to levy or attachment to meet the purposes of this section.

(g) If the allegation that the defendant is subject to the aggravated white collar crime enhancement or has committed a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000) is dismissed or found by the trier of fact to be untrue, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved. If a jury is the trier of fact, and the jury is unable to reach a unanimous verdict, the court shall have the discretion to continue or dissolve all or a portion of the preliminary injunction or temporary restraining order based upon the interests of justice. However, if the prosecuting agency elects not to retry the case, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved.

(h)

(1)

(A) If the defendant is convicted of two or more felonies, as specified in subdivision (a), and the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact, or the defendant is convicted of a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000), and an allegation as to the existence of those facts has been admitted or found to be true by the trier of fact, the trial judge shall continue the preliminary injunction or temporary restraining order until the date of the criminal sentencing and shall make a finding at that time as to what portion, if any, of the property or assets subject to the preliminary injunction or temporary restraining order shall be levied upon to pay fines and restitution to victims of the crime. The order imposing fines and restitution may exceed the total worth of the property or assets subjected to the preliminary injunction or temporary restraining order. The court may order the immediate transfer of the property or assets to satisfy any judgment and sentence made pursuant to this section. Additionally, upon motion of the prosecution, the court may enter an order as part of the judgment and sentence making the

order imposing fines and restitution pursuant to this section enforceable pursuant to Title 9 (commencing with *Section 680.010) of Part 2 of the Code of Civil Procedure.*

(B) Additionally, the court shall order the defendant to make full restitution to the victim or to make restitution to the victim based on his or her ability to pay, as defined in subdivision (e) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this section shall be made a condition of any probation granted by the court if the existence of facts that would make the defendant subject to the aggravated white collar crime enhancement or of facts demonstrating the person committed a felony, a material element of which is fraud or embezzlement, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000) have been admitted or found to be true by the trier of fact. Notwithstanding any other provision of law, the court may order that the period of probation continue for up to 10 years or until full restitution is made to the victim, whichever is earlier.

(C) The sentencing court shall retain jurisdiction to enforce the order to pay additional fines and restitution and, in appropriate cases, may initiate probation violation proceedings or contempt of court proceedings against a defendant who is found to have willfully failed to comply with any lawful order of the court.

(D) If the execution of judgment is stayed pending an appeal of an order of the superior court pursuant to this section, the preliminary injunction or temporary restraining order shall be maintained in full force and effect during the pendency of the appellate period.

(2) The order imposing fines and restitution shall not affect the interest in real property of any third party that was acquired prior to the recording of the lis pendens, unless the property was obtained from the defendant other than as a bona fide purchaser for value. If any assets or property affected by this section are subject to a valid lien, mortgage, security interest, or interest under a conditional sales contract and the amount due to the holder of the lien, mortgage, interest, or contract is less than the appraised value of the property, that person may pay to the state or the local government that initiated the proceeding the amount of the difference between the appraised value of the property and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local entity shall relinquish all claims to the property. If the holder of the interest elects not to make that payment to the state or local governmental entity, the interest in the property shall be deemed transferred to the state or local governmental entity and any indicia of ownership of the property shall be confirmed in the state or local governmental entity. The appraised value shall be determined as of the date judgment is entered either by agreement between the holder of the lien, mortgage, security interest, or interest under a conditional sales contract and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought. A person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract shall be paid the appraised value of his or her interest.

(3) In making its final order, the court shall seek to protect the legitimately acquired interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(i) In all cases where property is to be levied upon pursuant to this section, a receiver appointed by the court shall be empowered to liquidate all property or assets which shall be distributed in the following order of priority:

(1) To the receiver, or court-appointed appraiser, for all reasonable expenditures made or incurred by him or her in connection with the sale of the property or liquidation of assets, including all reasonable expenditures for any necessary repairs, storage, or transportation of any property levied upon under this section.

(2) To any holder of a valid lien, mortgage, or security interest up to the amount of his or her interest in the property or proceeds.

(3) To any victim as restitution for any fraudulent or unlawful acts alleged in the accusatory pleading that were proven by the prosecuting agency as part of the pattern of fraudulent or unlawful acts.

(4) For payment of any fine imposed pursuant to this section. The proceeds obtained in payment of a fine shall be paid to the treasurer of the county in which the judgment was entered, or if the action was undertaken by the Attorney General, to the Treasurer. If the payment of any fine imposed pursuant to this section involved losses resulting from violation of Section 550 of this code or *Section 1871.4 of the Insurance Code*, one-half of the fine collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half of the fine collected shall be paid to the Department of Insurance for deposit in the appropriate account in the Insurance Fund. The proceeds from the fine first shall be used by a county to reimburse local prosecutors and enforcement agencies for the reasonable costs of investigation and prosecution of cases brought pursuant to this section.

(5) To the Restitution Fund, or in cases involving convictions relating to insurance fraud, to the Insurance Fund as restitution for crimes not specifically pleaded and proven in the accusatory pleading.

(j) If, after distribution pursuant to paragraphs (1) and (2) of subdivision (i), the value of the property to be levied upon pursuant to this section is insufficient to pay for restitution and fines, the court shall order an equitable sharing of the proceeds of the liquidation of the property, and any other recoveries, which shall specify the percentage of recoveries to be devoted to each purpose. At least 70 percent of the proceeds remaining after distribution pursuant to paragraphs (1) and (2) of subdivision (i) shall be devoted to restitution.

(k) Unless otherwise expressly provided, the remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state, except that two separate actions against the same defendant and pertaining to the same fraudulent or unlawful acts may not be brought by a district attorney or the Attorney General pursuant to this section and Chapter 5 (commencing with *Section 17200) of Part 2 of Division 7 of the Business and Professions Code*. If a fine is imposed under this section, it shall be in lieu of all other fines that may be imposed pursuant to any other provision of law for the crimes for which the defendant has been convicted in the action.

SEC. 223.

Section 186.12 of the Penal Code is amended to read:

186.12.

(a)

(1) A felony for purposes of this section means a felony violation of subdivision (d) or (e) of Section 368, or a felony violation of subdivision (c) of *Section 15656 of the Welfare and Institutions Code*, that involves the taking or loss of more than one hundred thousand dollars ($ 100,000).

(2) If a person is charged with a felony as described in paragraph (1) and an allegation as to the existence of those facts has been made, any property that is in the control of that person, and any property that has been transferred by that person to a third party, subsequent to the commission of any criminal act alleged pursuant to this subdivision, other than in a bona fide purchase, whether found within or outside the state, may be preserved by the superior court in order to pay restitution imposed pursuant to this section. Upon conviction of the felony, this

property may be levied upon by the superior court to pay restitution imposed pursuant to this section.

(b)

(1) To prevent dissipation or secreting of property, the prosecuting agency may, at the same time as or subsequent to the filing of a complaint or indictment charging a felony subject to this section, file a petition with the criminal division of the superior court of the county in which the accusatory pleading was filed, seeking a temporary restraining order, preliminary injunction, the appointment of a receiver, or any other protective relief necessary to preserve the property. The filing of the petition shall commence a proceeding that shall be pendent to the criminal proceeding and maintained solely to affect the criminal remedies provided for in this section. The proceeding shall not be subject to or governed by the provisions of the Civil Discovery Act as set forth in Title 4 (commencing with *Section 2016.010) of Part 4 of the Code of Civil Procedure.* The petition shall allege that the defendant has been charged with a felony as described in paragraph (1) of subdivision (a) and shall identify that criminal proceeding and the property to be affected by an order issued pursuant to this section.

(2) A notice regarding the petition shall be provided, by personal service or registered mail, to every person who may have an interest in the property specified in the petition. Additionally, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property affected by an order issued pursuant to this section is located. The notice shall state that any interested person may file a verified claim with the superior court stating the nature and amount of their claimed interest. The notice shall set forth the time within which a claim of interest in the protected property is required to be filed.

(3) If the property to be preserved is real property, the prosecuting agency shall record, at the time of filing the petition, a lis pendens in each county in which the real property is situated which specifically identifies the property by legal description, the name of the owner of record as shown on the latest equalized assessment roll, and the assessor's parcel number.

(4) If the property to be preserved are assets under the control of a banking or financial institution, the prosecuting agency, at the time of the filing of the petition, may obtain an order from the court directing the banking or financial institution to immediately disclose the account numbers and value of the assets of the accused held by the banking or financial institution. The prosecuting agency shall file a supplemental petition, specifically identifying which banking or financial institution accounts shall be subject to a temporary restraining order, preliminary injunction, or other protective remedy.

(5) Any person claiming an interest in the protected property may, at any time within 30 days from the date of the first publication of the notice of the petition, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating the nature and amount of his or her interest in the property. A verified copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate.

(6) The imposition of restitution pursuant to this section shall be determined by the superior court in which the underlying criminal offense is sentenced. Any judge who is assigned to the criminal division of the superior court in the county where the petition is filed may issue a temporary restraining order in conjunction with, or subsequent to, the filing of an allegation pursuant to this section. Any subsequent hearing on the petition shall also be heard by a judge assigned to the criminal division of the superior court in the county in which the petition is filed. At the time of the filing of an information or indictment in the underlying criminal case, any subsequent hearing on the petition shall be heard by the superior court judge assigned to the underlying criminal case.

(c) Concurrent with or subsequent to the filing of the petition pursuant to this section, the prosecuting agency may move the superior court for, and the superior court may issue, the following pendente lite orders to preserve the status quo of the property identified in the petition:

(1) An injunction to restrain any person from transferring, encumbering, hypothecating, or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the properties so that the property may be maintained and preserved. The court may order that a receiver appointed pursuant to this section shall be compensated for all reasonable expenditures made or incurred by him or her in connection with the possession, care, management, and operation of any property that is subject to this section.

(3) A bond or other undertaking, in lieu of other orders, of a value sufficient to ensure the satisfaction of restitution imposed pursuant to this section.

(d)

(1) No preliminary injunction may be granted or receiver appointed by the court without notice that meets the requirements of paragraph (2) of subdivision (b) to all known and reasonably ascertainable interested parties and upon a hearing to determine that an order is necessary to preserve the property pending the outcome of the criminal proceedings. A temporary restraining order may be issued by the court, ex parte, pending that hearing in conjunction with or subsequent to the filing of the petition upon the application of the prosecuting attorney. The temporary restraining order may be based upon the sworn declaration of a peace officer with personal knowledge of the criminal investigation that establishes probable cause to believe that a felony has taken place and that the amount of restitution established by this section exceeds or equals the worth of the property subject to the temporary restraining order. The declaration may include the hearsay statements of witnesses to establish the necessary facts. The temporary restraining order may be issued without notice upon a showing of good cause to the court.

(2) The defendant, or a person who has filed a verified claim as provided in paragraph (5) of subdivision (b), shall have the right to have the court conduct an order to show cause hearing within 10 days of the service of the request for hearing upon the prosecuting agency, in order to determine whether the temporary restraining order should remain in effect, whether relief should be granted from any lis pendens recorded pursuant to paragraph (3) of subdivision (b), or whether any existing order should be modified in the interests of justice. Upon a showing of good cause, the hearing shall be held within two days of the service of the request for hearing upon the prosecuting agency.

(3) In determining whether to issue a preliminary injunction or temporary restraining order in a proceeding brought by a prosecuting agency in conjunction with or subsequent to the filing of an allegation pursuant to this section, the court has the discretion to consider any matter that it deems reliable and appropriate, including hearsay statements, in order to reach a just and equitable decision. The court shall weigh the relative degree of certainty of the outcome on the merits and the consequences to each of the parties of granting the interim relief. If the prosecution is likely to prevail on the merits and the risk of dissipation of the property outweighs the potential harm to the defendants and the interested parties, the court shall grant injunctive relief. The court shall give significant weight to the following factors:

(A) The public interest in preserving the property pendente lite.

(B) The difficulty of preserving the property pendente lite where the underlying alleged crimes involve issues of fraud and moral turpitude.

(C) The fact that the requested relief is being sought by a public prosecutor on behalf of alleged victims of elder or dependent adult financial abuse.

(D) The likelihood that substantial public harm has occurred where a felony is alleged to have been committed.

(E) The significant public interest involved in compensating the elder or dependent adult victim of financial abuse and paying court-imposed restitution.

(4) The court, in making its orders, may consider a defendant's request for the release of a portion of the property affected by this section in order to pay reasonable legal fees in connection with the criminal proceeding, any necessary and appropriate living expenses pending trial and sentencing, and for the purpose of posting bail. The court shall weigh the needs of the public to retain the property against the needs of the defendant to a portion of the property. The court shall consider the factors listed in paragraph (3) prior to making any order releasing property for these purposes.

(5) The court, in making its orders, shall seek to protect the interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(6) Any petition filed pursuant to this section shall be part of the criminal proceedings for purposes of appointment of counsel and shall be assigned to the criminal division of the superior court of the county in which the accusatory pleading was filed.

(7) Based upon a noticed motion brought by the receiver appointed pursuant to paragraph (2) of subdivision (c), the court may order an interlocutory sale of property identified in the petition when the property is liable to perish, to waste, or to be significantly reduced in value, or when the expenses of maintaining the property are disproportionate to the value thereof. The proceeds of the interlocutory sale shall be deposited with the court or as directed by the court pending determination of the proceeding pursuant to this section.

(8) The court may make any orders that are necessary to preserve the continuing viability of any lawful business enterprise that is affected by the issuance of a temporary restraining order or preliminary injunction issued pursuant to this action.

(9) In making its orders, the court shall seek to prevent any property subject to a temporary restraining order or preliminary injunction from perishing, spoiling, going to waste, or otherwise being significantly reduced in value. Where the potential for diminution in value exists, the court shall appoint a receiver to dispose of or otherwise protect the value of the property.

(10) A preservation order shall not be issued against any assets of a business that are not likely to be dissipated and that may be subject to levy or attachment to meet the purposes of this section.

(e) If the allegation that the defendant committed a felony subject to this section is dismissed or found by the trier of fact to be untrue, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved. If a jury is the trier of fact, and the jury is unable to reach a unanimous verdict, the court shall have the discretion to continue or dissolve all or a portion of the preliminary injunction or temporary restraining order based upon the interests of justice. However, if the prosecuting agency elects not to retry the case, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved.

(f)

(1)

(A) If the defendant is convicted of a felony subject to this section, the trial judge shall continue the preliminary injunction or temporary restraining order until the date of the criminal sentencing and shall make a finding at that time as to what portion, if any, of the property subject to the preliminary injunction or temporary restraining order shall be levied upon to pay restitution to victims of the crime. The order imposing restitution may exceed

the total worth of the property subjected to the preliminary injunction or temporary restraining order. The court may order the immediate transfer of the property to satisfy any judgment and sentence made pursuant to this section. Additionally, upon motion of the prosecution, the court may enter an order as part of the judgment and sentence making the order imposing restitution pursuant to this section enforceable pursuant to Title 9 (commencing with *Section 680.010) of Part 2 of the Code of Civil Procedure.*

(B) Additionally, the court shall order the defendant to make full restitution to the victim or to make restitution to the victim based on his or her ability to pay, as defined in subdivision (e) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this section shall be made a condition of any probation granted by the court. Notwithstanding any other provision of law, the court may order that the period of probation continue for up to 10 years or until full restitution is made to the victim, whichever is earlier.

(C) The sentencing court shall retain jurisdiction to enforce the order to pay additional restitution and, in appropriate cases, may initiate probation violation proceedings or contempt of court proceedings against a defendant who is found to have willfully failed to comply with any lawful order of the court.

(D) If the execution of judgment is stayed pending an appeal of an order of the superior court pursuant to this section, the preliminary injunction or temporary restraining order shall be maintained in full force and effect during the pendency of the appellate period.

(2) The order imposing restitution shall not affect the interest in real property of any third party that was acquired prior to the recording of the lis pendens, unless the property was obtained from the defendant other than as a bona fide purchaser for value. If any assets or property affected by this section are subject to a valid lien, mortgage, security interest, or interest under a conditional sales contract and the amount due to the holder of the lien, mortgage, interest, or contract is less than the appraised value of the property, that person may pay to the state or the local government that initiated the proceeding the amount of the difference between the appraised value of the property and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local entity shall relinquish all claims to the property. If the holder of the interest elects not to make that payment to the state or local governmental entity, the interest in the property shall be deemed transferred to the state or local governmental entity and any indicia of ownership of the property shall be confirmed in the state or local governmental entity. The appraised value shall be determined as of the date judgment is entered either by agreement between the holder of the lien, mortgage, security interest, or interest under a conditional sales contract and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought. A person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract shall be paid the appraised value of his or her interest.

(3) In making its final order, the court shall seek to protect the legitimately acquired interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(g) In all cases where property is to be levied upon pursuant to this section, a receiver appointed by the court shall be empowered to liquidate all property, the proceeds of which shall be distributed in the following order of priority:

(1) To the receiver, or court-appointed appraiser, for all reasonable expenditures made or incurred by him or her in connection with the sale or liquidation of the property, including all reasonable expenditures for any necessary repairs, storage, or transportation of any property levied upon under this section.

(2) To any holder of a valid lien, mortgage, or security interest up to the amount of his or her interest in the property or proceeds.

(3) To any victim as restitution for any fraudulent or unlawful acts alleged in the accusatory pleading that were proven by the prosecuting agency as part of the pattern of fraudulent or unlawful acts.

(h) Unless otherwise expressly provided, the remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state, except that two separate actions against the same defendant and pertaining to the same fraudulent or unlawful acts may not be brought by a district attorney or the Attorney General pursuant to this section and Chapter 5 (commencing with *Section 17200) of Part 2 of Division 7 of the Business and Professions Code*.

SEC. 223.5.

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, his or her 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(9) 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 he or she 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. 224.

Section 241 of the Penal Code is amended to read:

241.

(a) An assault is punishable by a fine not exceeding one thousand dollars ($ 1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

(b) When an assault is committed against the person of a parking control officer engaged in the performance of his or her duties, and the person committing the offense knows or reasonably should know that the victim is a parking control officer, the assault is punishable by a fine not exceeding two thousand dollars ($ 2,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

(c) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, firefighter, emergency medical

technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars ($ 2,000), or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(d) As used in this section, the following definitions apply:

(1) Peace officer means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Care Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with *Section 1797) of the Health and Safety Code*.

(3) "Mobile intensive care paramedic" refers to a person who meets the standards set forth in Division 2.5 (commencing with *Section 1797) of the Health and Safety Code*.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with *Section 1797) of the Health and Safety Code*.

(5) "Lifeguard" means a person who is:

(A) Employed as a lifeguard by the state, a county, or a city, and is designated by local ordinance as a public officer who has a duty and responsibility to enforce local ordinances and misdemeanors through the issuance of citations.

(B) Wearing distinctive clothing which includes written identification of the person's status as a lifeguard and which clearly identifies the employing organization.

(6) "Process server" means any person who meets the standards or is expressly exempt from the standards set forth in *Section 22350 of the Business and Professions Code*.

(7) "Traffic officer" means any person employed by a county or city to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(8) "Animal control officer" means any person employed by a county or city for purposes of enforcing animal control laws or regulations.

(9)

(A) "Code enforcement officer" means any person who is not described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, that has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints.

(B) "Code enforcement officer" also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements pursuant to the Employee Housing Act (Part 1 (commencing with *Section 17000) of Division 13 of the Health and Safety Code*); the State Housing Law (Part 1.5 (commencing with *Section 17910) of Division 13 of the Health and Safety Code*); the Manufactured Housing Act of 1980 (Part 2 (commencing with *Section 18000) of Division 13 of the Health and Safety Code*); the Mobilehome Parks Act (Part 2.1 (commencing with *Section 18200) of Division 13 of the Health and Safety Code*); and the Special Occupancy Parks Act (Part 2.3 (commencing with *Section 18860) of Division 13 of the Health and Safety Code*).

(10) “Parking control officer” means any person employed by a city, county, or city and county, to monitor and enforce state laws and local ordinances relating to parking.

(11) “Search and rescue member” means any person who is part of an organized search and rescue team managed by a governmental agency.

SEC. 225.

Section 502.8 of the Penal Code is amended to read:

502.8.

(a) Any person who knowingly advertises illegal telecommunications equipment is guilty of a misdemeanor.

(b) Any person who possesses or uses illegal telecommunications equipment intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a misdemeanor.

(c) Any person found guilty of violating subdivision (b), who has previously been convicted of the same offense, shall be guilty of a felony, punishable by imprisonment in state prison, a fine of up to fifty thousand dollars ($ 50,000), or both.

(d) Any person who possesses illegal telecommunications equipment with intent to sell, transfer, or furnish or offer to sell, transfer, or furnish the equipment to another, intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a misdemeanor punishable by one year in a county jail or imprisonment in state prison or a fine of up to ten thousand dollars ($ 10,000), or both.

(e) Any person who possesses 10 or more items of illegal telecommunications equipment with intent to sell or offer to sell the equipment to another, intending to avoid payment of any lawful charge for telecommunications service or to facilitate other criminal conduct, is guilty of a felony, punishable by imprisonment in state prison, a fine of up to fifty thousand dollars ($ 50,000), or both.

(f) Any person who manufactures 10 or more items of illegal telecommunications equipment with intent to sell or offer to sell the equipment to another, intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a felony punishable by imprisonment in state prison or a fine of up to fifty thousand dollars ($ 50,000), or both.

(g) For purposes of this section, “illegal telecommunications equipment” means equipment that operates to evade the lawful charges for any telecommunications service; surreptitiously intercept electronic serial numbers or mobile identification numbers; alter electronic serial numbers; circumvent efforts to confirm legitimate access to a telecommunications account; conceal from any telecommunications service provider or lawful authority the existence, place of origin, or destination of any telecommunication; or otherwise facilitate any other criminal conduct. “Illegal telecommunications equipment” includes, but is not limited to, any unauthorized electronic serial number or mobile identification number, whether incorporated into a wireless telephone or other device or otherwise. Items specified in this subdivision shall be considered illegal telecommunications equipment notwithstanding any statement or disclaimer that the items are intended for educational, instructional, or similar purposes.

(h)

(1) In the event that a person violates the provisions of this section with the intent to avoid the payment of any lawful charge for telecommunications service to a telecommunications service provider, the court shall order the person to pay restitution to the telecommunications service provider in an amount that is the greater of the following:

(A) Five thousand dollars ($ 5,000).

(B) Three times the amount of actual damages, if any, sustained by the telecommunications service provider, plus reasonable attorney fees.

(2) It is not a necessary prerequisite to an order of restitution under this section that the telecommunications service provider has suffered, or be threatened with, actual damages.

SEC. 226.

Section 670 of the Penal Code is amended to read:

670.

(a) Any person who violates Section 7158 or 7159 of, or subdivision (b), (c), (d), or (e) of *Section 7161 of, the Business and Professions Code* or Section 470, 484, 487, or 532 of this code as part of a plan or scheme to defraud an owner or lessee of a residential or nonresidential structure in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster specified in subdivision (b), shall be subject to the penalties and enhancements specified in subdivisions (c) and (d). The existence of any fact which would bring a person under this section shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(b) This section applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to *Section 8625 of the Government Code* or for which an emergency or major disaster is declared by the President of the United States.

(c) The maximum or prescribed amounts of fines for offenses subject to this section shall be doubled. If the person has been previously convicted of a felony offense specified in subdivision (a), the person shall receive a one-year enhancement in addition to, and to run consecutively to, the term of imprisonment for any felony otherwise prescribed by this subdivision.

(d) Additionally, the court shall order any person sentenced pursuant to this section to make full restitution to the victim or to make restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this subdivision shall be made a condition of any probation granted by the court for an offense punishable under this section. Notwithstanding any other provision of law, the period of probation shall be at least five years or until full restitution is made to the victim, whichever first occurs.

(e) Notwithstanding any other provision of law, the prosecuting agency shall be entitled to recover its costs of investigation and prosecution from any fines imposed for a conviction under this section.

SEC. 227.

Section 679.10 of the Penal Code is amended to read:

679.10.

(a) For purposes of this section, a "certifying entity" is any of the following:

(1) A state or local law enforcement agency.

(2) A prosecutor.

(3) A judge.

(4) Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity.

(5) Agencies that have criminal detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

(b) For purposes of this section, a "certifying official" is any of the following:

(1) The head of the certifying entity.

(2) A person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency.

(3) A judge.

(4) Any other certifying official defined under *Section 214.14 (a)(2) of Title 8 of the Code of Federal Regulations*.

(c) "Qualifying criminal activity" means qualifying criminal activity pursuant to Section 101(a)(15)(U)(iii) of the federal Immigration and Nationality Act which includes, but is not limited to, the following crimes:

(1) Rape.

(2) Torture.

(3) Human trafficking.

(4) Incest.

(5) Domestic violence.

(6) Sexual assault.

(7) Abusive sexual conduct.

(8) Prostitution.

(9) Sexual exploitation.

(10) Female genital mutilation.

(11) Being held hostage.

(12) Peonage.

(13) Perjury.

(14) Involuntary servitude.

(15) Slavery.

(16) Kidnaping.

(17) Abduction.

(18) Unlawful criminal restraint.

(19) False imprisonment.

(20) Blackmail.

(21) Extortion.

(22) Manslaughter.

(23) Murder.

(24) Felonious assault.

(25) Witness tampering.

(26) Obstruction of justice.

(27) Fraud in foreign labor contracting.

(28) Stalking.

(d) A "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in subdivision (c), and the attempt, conspiracy, or solicitation to commit any of those offenses.

(e) Upon the request of the victim or victim's family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.

(f) For purposes of determining helpfulness pursuant to subdivision (e), there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(g) The certifying official shall fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.

(h) A certifying entity shall process a Form I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.

(i) A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.

(j) A certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

(k) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(l) A certifying entity that receives a request for a Form I-918 Supplement B certification shall report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Supplement B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with *Section 9795 of the Government Code*.

SEC. 228.

Section 832.3 of the Penal Code, as amended by Section 1 of Chapter 207 of the Statutes of 2015, is amended to read:

832.3.

(a) Except as provided in subdivision (e), any sheriff, undersheriff, or deputy sheriff of a county, any police officer of a city, and any police officer of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, shall successfully complete a course of training prescribed by the Commission on Peace Officer Standards and Training before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training. Each police chief, or any other person in charge of a local law

enforcement agency, appointed on or after January 1, 1999, as a condition of continued employment, shall complete the course of training pursuant to this subdivision within two years of appointment. The training course for a sheriff, an undersheriff, and a deputy sheriff of a county, and a police chief and a police officer of a city or any other local law enforcement agency, shall be the same.

(b) For the purpose of ensuring competent peace officers and standardizing the training required in subdivision (a), the commission shall develop a testing program, including standardized tests that enable (1) comparisons between presenters of the training and (2) assessments of trainee achievement. The trainees' test scores shall be used only for the purposes enumerated in this subdivision and those research purposes as shall be approved in advance by the commission. The commission shall take all steps necessary to maintain the confidentiality of the test scores, test items, scoring keys, and other examination data used in the testing program required by this subdivision. The commission shall determine the minimum passing score for each test and the conditions for retesting students who fail. Passing these tests shall be required for successful completion of the training required in subdivision (a). Presenters approved by the commission to provide the training required in subdivision (a) shall administer the standardized tests or, at the commission's option, shall facilitate the commission's administration of the standardized tests to all trainees.

(c) Community colleges may give preference in enrollment to employed law enforcement trainees who shall complete training as prescribed by this section. At least 15 percent of each presentation shall consist of non-law-enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the time required by statute, and only when no other training program is reasonably available. Average daily attendance for these courses shall be reported for state aid.

(d) Prior to July 1, 1987, the commission shall make a report to the Legislature on academy proficiency testing scores. This report shall include an evaluation of the correlation between academy proficiency test scores and performance as a peace officer.

(e)

(1) Any deputy sheriff described in subdivision (c) of Section 830.1 shall be exempt from the training requirements specified in subdivisions (a) and (b) as long as his or her assignments remain custodial related.

(2) Deputy sheriffs described in subdivision (c) of Section 830.1 shall complete the training for peace officers pursuant to subdivision (a) of Section 832, and within 120 days after the date of employment, shall complete the training required by the Board of State and Community Corrections for custodial personnel pursuant to Section 6035, and the training required for custodial personnel of local detention facilities pursuant to Subchapter 1 (commencing with Section 100) of Chapter 1 of Division 1 of Title 15 of the California Code of Regulations.

(3) Deputy sheriffs described in subdivision (c) of Section 830.1 shall complete the course of training pursuant to subdivision (a) prior to being reassigned from custodial assignments to duties with responsibility for the prevention and detection of crime and the general enforcement of the criminal laws of this state. A deputy sheriff who has completed the course of training pursuant to subdivision (a) and has been hired as a deputy sheriff described in subdivision (c) of Section 830.1 shall be eligible to be reassigned from custodial assignments to duties with the responsibility for the prevention and detection of crime and the general enforcement of the criminal laws of this state within three years of completing the training pursuant to subdivision (a). A deputy sheriff shall be eligible for reassignment within five years of having completed the training pursuant to subdivision (a) without having to complete a requalification for the regular basic course provided that all of the following are satisfied:

(A) The deputy sheriff remains continuously employed by the same department in which the deputy sheriff is being reassigned from custodial assignments to duties with the responsibility for the prevention and detection of crime and the general enforcement of the criminal laws of this state.

(B) The deputy sheriff maintains the perishable skills training required by the commission for peace officers assigned to duties with the responsibility for the prevention and detection of crime and the general enforcement of the criminal laws of this state.

(f) Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete a basic course of training as prescribed by subdivision (a) before exercising the powers of a peace officer. A school police officer shall not be subject to this subdivision while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(g) The commission shall prepare a specialized course of instruction for the training of school peace officers, as defined in Section 830.32, to meet the unique safety needs of a school environment. This course is intended to supplement any other training requirements.

(h) Any school peace officer first employed by a K-12 public school district or California Community College district before July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) no later than July 1, 2002. Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) within two years of the date of first employment.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 229.

Section 832.3 of the Penal Code, as added by Section 2 of Chapter 207 of the Statutes of 2015, is amended to read:

832.3.

(a) Except as provided in subdivision (e), any sheriff, undersheriff, or deputy sheriff of a county, any police officer of a city, and any police officer of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, shall successfully complete a course of training prescribed by the Commission on Peace Officer Standards and Training before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training. Each police chief, or any other person in charge of a local law enforcement agency, appointed on or after January 1, 1999, as a condition of continued employment, shall complete the course of training pursuant to this subdivision within two years of appointment. The training course for a sheriff, an undersheriff, and a deputy sheriff of a county, and a police chief and a police officer of a city or any other local law enforcement agency, shall be the same.

(b) For the purpose of ensuring competent peace officers and standardizing the training required in subdivision (a), the commission shall develop a testing program, including standardized tests that enable (1) comparisons between presenters of the training and (2) assessments of trainee achievement. The trainees' test scores shall be used only for the purposes enumerated in this subdivision and those research purposes as shall be approved in advance by the commission. The commission shall take all steps necessary to maintain the confidentiality of the test scores, test items, scoring keys, and other examination data used in the testing program required by this subdivision. The commission shall determine the minimum passing score for each test and the conditions for retesting students who fail. Passing these tests shall be required for successful completion of the training required in subdivision (a). Presenters approved by the commission to provide the training required in subdivision (a) shall administer the standardized tests or, at the commission's option, shall facilitate the commission's administration of the standardized tests to all trainees.

(c) Community colleges may give preference in enrollment to employed law enforcement trainees who shall complete training as prescribed by this section. At least 15 percent of each presentation shall consist of non-law-enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the time required by statute, and only when no other training program is reasonably available. Average daily attendance for these courses shall be reported for state aid.

(d) Prior to July 1, 1987, the commission shall make a report to the Legislature on academy proficiency testing scores. This report shall include an evaluation of the correlation between academy proficiency test scores and performance as a peace officer.

(e)

(1) Any deputy sheriff described in subdivision (c) of Section 830.1 shall be exempt from the training requirements specified in subdivisions (a) and (b) as long as his or her assignments remain custodial related.

(2) Deputy sheriffs described in subdivision (c) of Section 830.1 shall complete the training for peace officers pursuant to subdivision (a) of Section 832, and within 120 days after the date of employment, shall complete the training required by the Board of State and Community Corrections for custodial personnel pursuant to Section 6035, and the training required for custodial personnel of local detention facilities pursuant to Subchapter 1 (commencing with Section 100) of Chapter 1 of Division 1 of Title 15 of the California Code of Regulations.

(3) Deputy sheriffs described in subdivision (c) of Section 830.1 shall complete the course of training pursuant to subdivision (a) prior to being reassigned from custodial assignments to duties with responsibility for the prevention and detection of crime and the general enforcement of the criminal laws of this state.

(f) Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete a basic course of training as prescribed by subdivision (a) before exercising the powers of a peace officer. A school police officer shall not be subject to this subdivision while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(g) The commission shall prepare a specialized course of instruction for the training of school peace officers, as defined in Section 830.32, to meet the unique safety needs of a school environment. This course is intended to supplement any other training requirements.

(h) Any school peace officer first employed by a K-12 public school district or California Community College district before July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) no later than July 1, 2002. Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) within two years of the date of first employment.

(i) This section shall become operative January 1, 2019.

SEC. 230.

Section 1214.5 of the Penal Code is amended to read:

1214.5.

(a) In any case in which the defendant is ordered to pay more than fifty dollars ($ 50) in restitution as a condition of probation, the court may, as an additional condition of probation since the court determines that the defendant has the ability to pay, as defined in subdivision (e) of Section 1203.1b, order the defendant to pay interest at the rate of 10 percent per annum on the principal amount remaining unsatisfied.

(b)

(1) Except as provided in paragraph (2), interest commences to accrue on the date of entry of the judgment or order.

(2) Unless the judgment or order otherwise provides, if restitution is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

SEC. 231.

Section 1524.2 of the Penal Code is amended to read:

1524.2.

(a) As used in this section, the following terms have the following meanings:

(1) The terms "electronic communication services" and "remote computing services" shall be construed in accordance with the Electronic Communications Privacy Act of 1986 in Chapter 121 (commencing with Section 2701) of Part I of Title 18 of the United States Code. This section does not apply to corporations that do not provide those services to the general public.

(2) An "adverse result" occurs when notification of the existence of a search warrant results in:

(A) Danger to the life or physical safety of an individual.

(B) A flight from prosecution.

(C) The destruction of or tampering with evidence.

(D) The intimidation of potential witnesses.

(E) Serious jeopardy to an investigation or undue delay of a trial.

(3) "Applicant" refers to the peace officer to whom a search warrant is issued pursuant to subdivision (a) of Section 1528.

(4) "California corporation" refers to any corporation or other entity that is subject to *Section 102 of the Corporations Code*, excluding foreign corporations.

(5) "Foreign corporation" refers to any corporation that is qualified to do business in this state pursuant to *Section 2105 of the Corporations Code*.

(6) "Properly served" means that a search warrant has been delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a person or entity listed in *Section 2110 of the Corporations Code*, or any other means specified by the recipient of the search warrant, including email or submission via an Internet Web portal that the recipient has designated for the purpose of service of process.

(b) The following provisions apply to any search warrant issued pursuant to this chapter allowing a search for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services to the general public, where those records would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications.

(1) When properly served with a search warrant issued by the California court, a foreign corporation subject to this section shall provide to the applicant, all records sought pursuant to that warrant within five business days of receipt, including those records maintained or located outside this state.

(2) If the applicant makes a showing and the magistrate finds that failure to produce records within less than five business days would cause an adverse result, the warrant may require

production of records within less than five business days. A court may reasonably extend the time required for production of the records upon finding that the foreign corporation has shown good cause for that extension and that an extension of time would not cause an adverse result.

(3) A foreign corporation seeking to quash the warrant must seek relief from the court that issued the warrant within the time required for production of records pursuant to this section. The issuing court shall hear and decide that motion no later than five court days after the motion is filed.

(4) The foreign corporation shall verify the authenticity of records that it produces by providing an affidavit that complies with the requirements set forth in *Section 1561 of the Evidence Code*. Those records shall be admissible in evidence as set forth in *Section 1562 of the Evidence Code*.

(c) A California corporation that provides electronic communication services or remote computing services to the general public, when served with a warrant issued by another state to produce records that would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant had been issued by a California court.

(d) A cause of action shall not lie against any foreign or California corporation subject to this section, its officers, employees, agents, or other specified persons for providing records, information, facilities, or assistance in accordance with the terms of a warrant issued pursuant to this chapter.

SEC. 232.

*Section 1526 of the Penal Code*is amended to read:

1526.

(a) The magistrate, before issuing the warrant, may examine on oath the person seeking the warrant and any witnesses the person may produce, and shall take his or her affidavit or their affidavits in writing, and cause the affidavit or affidavits to be subscribed by the party or parties making them.

(b) In lieu of the written affidavit required in subdivision (a), the magistrate may take an oral statement under oath under one of the following conditions:

(1) The oath shall be made under penalty of perjury and recorded and transcribed. The transcribed statement shall be deemed to be an affidavit for the purposes of this chapter. In these cases, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court. In the alternative in these cases, the sworn oral statement shall be recorded by a certified court reporter and the transcript of the statement shall be certified by the reporter, after which the magistrate receiving it shall certify the transcript which shall be filed with the clerk of the court.

(2) The oath is made using telephone and facsimile transmission equipment, telephone and email, or telephone and computer server, as follows:

(A) The oath is made during a telephone conversation with the magistrate, after the affiant has signed his or her affidavit in support of the application for the search warrant and transmitted the proposed search warrant and all supporting affidavits and documents to the magistrate. The affiant's signature may be in the form of a digital signature or electronic signature if email or computer server is used for transmission to the magistrate.

(B) The magistrate shall confirm with the affiant the receipt of the search warrant and the supporting affidavits and attachments. The magistrate shall verify that all the pages sent

have been received, that all pages are legible, and that the affiant's signature, digital signature, or electronic signature is acknowledged as genuine.

(C) If the magistrate decides to issue the search warrant, he or she shall:

(i) Sign the warrant. The magistrate's signature may be in the form of a digital signature or electronic signature if email or computer server is used for transmission by the magistrate.

(ii) Note on the warrant the exact date and time of the issuance of the warrant.

(iii) Indicate on the warrant that the oath of the affiant was administered orally over the telephone.

(D) The magistrate shall transmit via facsimile transmission equipment, email, or computer server, the signed search warrant to the affiant. The completed search warrant, as signed by the magistrate and received by the affiant, shall be deemed to be the original warrant. The original warrant and any affidavits or attachments in support thereof shall be returned as provided in Section 1534.

SEC. 233.

*Section 1546 of the Penal Code*is amended to read:

1546. For purposes of this chapter, the following definitions apply:

(a) An "adverse result" means any of the following:

(1) Danger to the life or physical safety of an individual.

(2) Flight from prosecution.

(3) Destruction of or tampering with evidence.

(4) Intimidation of potential witnesses.

(5) Serious jeopardy to an investigation or undue delay of a trial.

(b) "Authorized possessor" means the possessor of an electronic device when that person is the owner of the device or has been authorized to possess the device by the owner of the device.

(c) "Electronic communication" means the transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system.

(d) "Electronic communication information" means any information about an electronic communication or the use of an electronic communication service, including, but not limited to, the contents, sender, recipients, format, or location of the sender or recipients at any point during the communication, the time or date the communication was created, sent, or received, or any information pertaining to any individual or device participating in the communication, including, but not limited to, an IP address. "Electronic communication information" does not include subscriber information as defined in this chapter.

(e) "Electronic communication service" means a service that provides to its subscribers or users the ability to send or receive electronic communications, including any service that acts as an intermediary in the transmission of electronic communications, or stores electronic communication information.

(f) "Electronic device" means a device that stores, generates, or transmits information in electronic form.

(g) "Electronic device information" means any information stored on or generated through the operation of an electronic device, including the current and prior locations of the device.

(h) "Electronic information" means electronic communication information or electronic device information.

(i) "Government entity" means a department or agency of the state or a political subdivision thereof, or an individual acting for or on behalf of the state or a political subdivision thereof.

(j) "Service provider" means a person or entity offering an electronic communication service.

(k) "Specific consent" means consent provided directly to the government entity seeking information, including, but not limited to, when the government entity is the addressee or intended recipient or a member of the intended audience of an electronic communication. Specific consent does not require that the originator of the communication have actual knowledge that an addressee, intended recipient, or member of the specific audience is a government entity.

(l) "Subscriber information" means the name, street address, telephone number, email address, or similar contact information provided by the subscriber to the service provider to establish or maintain an account or communication channel, a subscriber or account number or identifier, the length of service, and the types of services used by a user of or subscriber to a service provider.

SEC. 234.

Section 1546.1 of the Penal Code is amended to read:

1546.1.

(a) Except as provided in this section, a government entity shall not do any of the following:

(1) Compel the production of or access to electronic communication information from a service provider.

(2) Compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device.

(3) Access electronic device information by means of physical interaction or electronic communication with the electronic device. This section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information concerning that communication to a government entity.

(b) A government entity may compel the production of or access to electronic communication information from a service provider, or compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device only under the following circumstances:

(1) Pursuant to a warrant issued pursuant to Chapter 3 (commencing with Section 1523) and subject to subdivision (d).

(2) Pursuant to a wiretap order issued pursuant to Chapter 1.4 (commencing with Section 629.50) of Title 15 of Part 1.

(3) Pursuant to an order for electronic reader records issued pursuant to *Section 1798.90 of the Civil Code*.

(4) Pursuant to a subpoena issued pursuant to existing state law, provided that the information is not sought for the purpose of investigating or prosecuting a criminal offense, and compelling the production of or access to the information via the subpoena is not otherwise prohibited by state or federal law. Nothing in this paragraph shall be construed to expand any authority under state law to compel the production of or access to electronic information.

(c) A government entity may access electronic device information by means of physical interaction or electronic communication with the device only as follows:

(1) Pursuant to a warrant issued pursuant to Chapter 3 (commencing with Section 1523) and subject to subdivision (d).

(2) Pursuant to a wiretap order issued pursuant to Chapter 1.4 (commencing with Section 629.50) of Title 15 of Part 1.

(3) With the specific consent of the authorized possessor of the device.

(4) With the specific consent of the owner of the device, only when the device has been reported as lost or stolen.

(5) If the government entity, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires access to the electronic device information.

(6) If the government entity, in good faith, believes the device to be lost, stolen, or abandoned, provided that the entity shall only access electronic device information in order to attempt to identify, verify, or contact the owner or authorized possessor of the device.

(7) Except where prohibited by state or federal law, if the device is seized from an inmate's possession or found in an area of a correctional facility under the jurisdiction of the Department of Corrections and Rehabilitation where inmates have access and the device is not in the possession of an individual and the device is not known or believed to be the possession of an authorized visitor. This paragraph shall not be construed to supersede or override Section 4576.

(d) Any warrant for electronic information shall comply with the following:

(1) The warrant shall describe with particularity the information to be seized by specifying the time periods covered and, as appropriate and reasonable, the target individuals or accounts, the applications or services covered, and the types of information sought.

(2) The warrant shall require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order. A court shall issue such an order upon a finding that there is probable cause to believe that the information is relevant to an active investigation, or review, use, or disclosure is required by state or federal law.

(3) The warrant shall comply with all other provisions of California and federal law, including any provisions prohibiting, limiting, or imposing additional requirements on the use of search warrants. If directed to a service provider, the warrant shall be accompanied by an order requiring the service provider to verify the authenticity of electronic information that it produces by providing an affidavit that complies with the requirements set forth in *Section 1561 of the Evidence Code*. Admission of that information into evidence shall be subject to *Section 1562 of the Evidence Code*.

(e) When issuing any warrant or order for electronic information, or upon the petition from the target or recipient of the warrant or order, a court may, at its discretion, do either or both of the following:

(1) Appoint a special master, as described in subdivision (d) of Section 1524, charged with ensuring that only information necessary to achieve the objective of the warrant or order is produced or accessed.

(2) Require that any information obtained through the execution of the warrant or order that is unrelated to the objective of the warrant be destroyed as soon as feasible after the termination of the current investigation and any related investigations or proceedings.

(f) A service provider may voluntarily disclose electronic communication information or subscriber information when that disclosure is not otherwise prohibited by state or federal law.

(g) If a government entity receives electronic communication information voluntarily provided pursuant to subdivision (f), it shall destroy that information within 90 days unless one or more of the following circumstances apply:

(1) The entity has or obtains the specific consent of the sender or recipient of the electronic communications about which information was disclosed.

(2) The entity obtains a court order authorizing the retention of the information. A court shall issue a retention order upon a finding that the conditions justifying the initial voluntary disclosure persist, in which case the court shall authorize the retention of the information only for so long as those conditions persist, or there is probable cause to believe that the information constitutes evidence that a crime has been committed.

(3) The entity reasonably believes that the information relates to child pornography and the information is retained as part of a multiagency database used in the investigation of child pornography and related crimes.

(h) If a government entity obtains electronic information pursuant to an emergency involving danger of death or serious physical injury to a person, that requires access to the electronic information without delay, the entity shall, within three days after obtaining the electronic information, file with the appropriate court an application for a warrant or order authorizing obtaining the electronic information or a motion seeking approval of the emergency disclosures that shall set forth the facts giving rise to the emergency, and if applicable, a request supported by a sworn affidavit for an order delaying notification under paragraph (1) of subdivision (b) of Section 1546.2. The court shall promptly rule on the application or motion and shall order the immediate destruction of all information obtained, and immediate notification pursuant to subdivision (a) of Section 1546.2 if such notice has not already been given, upon a finding that the facts did not give rise to an emergency or upon rejecting the warrant or order application on any other ground.

(i) This section does not limit the authority of a government entity to use an administrative, grand jury, trial, or civil discovery subpoena to do any of the following:

(1) Require an originator, addressee, or intended recipient of an electronic communication to disclose any electronic communication information associated with that communication.

(2) Require an entity that provides electronic communications services to its officers, directors, employees, or agents for the purpose of carrying out their duties, to disclose electronic communication information associated with an electronic communication to or from an officer, director, employee, or agent of the entity.

(3) Require a service provider to provide subscriber information.

SEC. 235.

Section 1546.2 of the Penal Code is amended to read:

1546.2.

(a) Except as otherwise provided in this section, any government entity that executes a warrant, or obtains electronic information in an emergency pursuant to Section 1546.1, shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, the identified targets of the warrant or emergency access, a notice that informs the recipient that information about the recipient has been compelled or obtained, and states with reasonable specificity the nature of the government investigation under which the information is sought. The notice shall include a copy of the warrant or a written statement setting forth facts giving rise to the emergency. The notice shall be provided contemporaneously with the execution of a warrant, or, in the case of an emergency, within three days after obtaining the electronic information.

(b)

(1) When a warrant is sought or electronic information is obtained in an emergency under Section 1546.1, the government entity may submit a request supported by a sworn affidavit for an order delaying notification and prohibiting any party providing information from notifying any other party that information has been sought. The court shall issue the order if the court determines that there is reason to believe that notification may have an adverse result, but only for the period of time that the court finds there is reason to believe that the notification may have that adverse result, and not to exceed 90 days.

(2) The court may grant extensions of the delay of up to 90 days each on the same grounds as provided in paragraph (1).

(3) Upon expiration of the period of delay of the notification, the government entity shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective as specified by the court issuing the order authorizing delayed notification, the identified targets of the warrant or emergency access, a document that includes the information described in subdivision (a), a copy of all electronic information obtained or a summary of that information, including, at a minimum, the number and types of records disclosed, the date and time when the earliest and latest records were created, and a statement of the grounds for the court's determination to grant a delay in notifying the individual.

(c) If there is no identified target of a warrant or emergency access at the time of its issuance, the government entity shall submit to the Department of Justice within three days of the execution of the warrant or issuance of the request all of the information required in subdivision (a). If an order delaying notice is obtained pursuant to subdivision (b), the government entity shall submit to the department upon the expiration of the period of delay of the notification all of the information required in paragraph (3) of subdivision (b). The department shall publish all those reports on its Internet Web site within 90 days of receipt. The department may redact names or other personal identifying information from the reports.

(d) Except as otherwise provided in this section, nothing in this chapter shall prohibit or limit a service provider or any other party from disclosing information about any request or demand for electronic information.

SEC. 236.

Section 3000.08 of the Penal Code is amended to read:

3000.08.

(a) A person released from state prison prior to or on or after July 1, 2013, after serving a prison term, or whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes is subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke parole and impose a term of custody:

(1) A serious felony as described in subdivision (c) of Section 1192.7.

(2) A violent felony as described in subdivision (c) of Section 667.5.

(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime for which the person is classified as a high-risk sex offender.

(5) Any crime for which the person is required, as a condition of parole, to undergo treatment by the State Department of State Hospitals pursuant to Section 2962.

(b) Notwithstanding any other law, all other offenders released from prison shall be placed on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450).

(c) At any time during the period of parole of a person subject to this section, if any parole agent or peace officer has probable cause to believe that the parolee is violating any term or condition of his or her parole, the agent or officer may, without warrant or other process and at any time until the final disposition of the case, arrest the person and bring him or her before the court, or the court may, in its discretion, issue a warrant for that person's arrest pursuant to Section 1203.2. Notwithstanding Section 3056, and unless the parolee is otherwise serving a period of flash incarceration, whenever a supervised person who is subject to this section is arrested, with or without a warrant or the filing of a petition for revocation as described in subdivision (f), the court may order the release of the parolee from custody under any terms and conditions the court deems appropriate.

(d) Upon review of the alleged violation and a finding of good cause that the parolee has committed a violation of law or violated his or her conditions of parole, the supervising parole agency may impose additional and appropriate conditions of supervision, including rehabilitation and treatment services and appropriate incentives for compliance, and impose immediate, structured, and intermediate sanctions for parole violations, including flash incarceration in a city or a county jail. Periods of "flash incarceration," as defined in subdivision (e) are encouraged as one method of punishment for violations of a parolee's conditions of parole. This section does not preclude referrals to a reentry court pursuant to Section 3015.

(e) "Flash incarceration" is a period of detention in a city or a county jail due to a violation of a parolee's conditions of parole. The length of the detention period can range between one and 10 consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee's conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention.

(f) If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising parole agency shall, pursuant to Section 1203.2, petition either the court in the county in which the parolee is being supervised or the court in the county in which the alleged violation of supervision occurred, to revoke parole. At any point during the process initiated pursuant to this section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification or revocation. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the court shall have authority to do any of the following:

(1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in a county jail.

(2) Revoke parole and order the person to confinement in a county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(g) Confinement pursuant to paragraphs (1) and (2) of subdivision (f) shall not exceed a period of 180 days in a county jail.

(h) Notwithstanding any other law, if Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 applies to a person who is on parole and the court determines that the person has committed a violation of law or violated his or her conditions of parole, the person on parole shall be remanded

to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

(i) Notwithstanding subdivision (a), any of the following persons released from state prison shall be subject to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation for a period of parole up to three years or the parole term the person was subject to at the time of the commission of the offense, whichever is greater:

(1) The person is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, and was subject to a period of parole exceeding three years at the time he or she committed a felony for which they were convicted and subsequently sentenced to state prison.

(2) The person was subject to parole for life pursuant to Section 3000.1 at the time of the commission of the offense that resulted in a conviction and state prison sentence.

(j) Parolees subject to this section who have a pending adjudication for a parole violation on July 1, 2013, are subject to the jurisdiction of the Board of Parole Hearings. Parole revocation proceedings conducted by the Board of Parole Hearings prior to July 1, 2013, if reopened on or after July 1, 2013, are subject to the jurisdiction of the Board of Parole Hearings.

(k) Except as described in subdivision (c), any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision.

(l) Any person released to parole supervision pursuant to subdivision (a) shall, regardless of any subsequent determination that the person should have been released pursuant to subdivision (b), remain subject to subdivision (a) after having served 60 days under supervision pursuant to subdivision (a).

SEC. 237.

Section 3016 of the Penal Code is amended to read:

3016.

(a) The Secretary of the Department of Corrections and Rehabilitation shall establish the Case Management Reentry Pilot Program for offenders under the jurisdiction of the department who have been sentenced to a term of imprisonment under Section 1170 and are likely to benefit from a case management reentry strategy designed to address homelessness, joblessness, mental disorders, and developmental disabilities among offenders transitioning from prison into the community. The purpose of the pilot program is to implement promising and evidence-based practices and strategies that promote improved public safety outcomes for offenders reentering society after serving a term in state prison and while released to parole.

(b) The program shall be initiated in at least three counties over three years, supported by department employees focusing primarily on case management services for eligible parolees selected for the pilot program. Department employees shall be experienced or trained to work as social workers with a parole population. Selection of a parolee for participation in the pilot program does not guarantee the availability of services.

(c) Case management social workers shall assist offenders on parole who are assigned to the program in managing basic needs, including housing, job training and placement, medical and mental health care, and any additional programming or responsibilities attendant to the terms of the offender's reentry requirements. Case management social workers also shall work closely with offenders to prepare, monitor, revise, and fulfill individualized offender reentry plans consistent with this section during the term of the program.

(d) Individualized offender reentry plans shall focus on connecting offenders to services for which the offender is eligible under existing federal, state, and local rules.

(e) Case management services shall be prioritized for offenders identified as potentially benefiting from assistance with the following:

(1) Food, including the immediate need and long-term planning for obtaining food.

(2) Clothing, including the immediate need to obtain appropriate clothing.

(3) Shelter, including obtaining housing consistent with the goals of the most independent, least restrictive and potentially durable housing in the local community and that are feasible for the circumstances of each reentering offender.

(4) Benefits, including, but not limited to, the California Work Opportunity and Responsibility to Kids program, general assistance, benefits administered by the federal Social Security Administration, Medi-Cal, and veterans benefits.

(5) Health services, including assisting parolee clients with accessing community mental health, medical, and dental treatment.

(6) Substance abuse services, including assisting parolee clients with obtaining community substance abuse treatment or related 12-step program information and locations.

(7) Income, including developing and implementing a feasible plan to obtain an income and employment reflecting the highest level of work appropriate for a reentering offender's abilities and experience.

(8) Identification cards, including assisting reentering offenders with obtaining state identification cards.

(9) Life skills, including assisting with the development of skills concerning money management, job interviewing, resume writing, and activities of daily living.

(10) Activities, including working with reentering offenders in choosing and engaging in suitable and productive activities.

(11) Support systems, including working with reentering offenders on developing a support system, which may consist of prosocial friends, family, and community groups and activities, such as religious activities, recovery groups, and other social events.

(12) Academic and vocational programs, including assisting reentering offenders in developing and implementing a realistic plan to achieve an academic education, or vocational training, or both.

(13) Discharge planning, including developing postparole plans to sustain parolees' achievements and goals to ensure long-term community success.

(f) The department shall contract for an evaluation of the pilot program that will assess its effectiveness in reducing recidivism among offenders transitioning from prison into the community.

(g) The department shall submit a final report of the findings from its evaluation of the pilot program to the Legislature and the Governor no later than July 31, 2017.

(h) Implementation of this article is contingent on the availability of funds and the pilot program may be limited in scope or duration based on the availability of funds.

SEC. 238.

Section 3056 of the Penal Code is amended to read:

3056.

(a) Prisoners on parole shall remain under the supervision of the department but shall not be returned to prison except as provided in subdivision (b) or as provided by subdivision (c) of Section 3000.09. A parolee awaiting a parole revocation hearing may be housed in a county jail while awaiting revocation proceedings. If a parolee is housed in a county jail, he or she shall be housed in the county in which he or she was arrested or the county in which a petition to revoke parole has been filed or, if there is no county jail in that county, in the housing facility with which that county has contracted to house jail inmates. Additionally, except as provided by subdivision (c) of Section 3000.09, upon revocation of parole, a parolee may be housed in a county jail for a maximum of 180 days per revocation. When housed in county facilities, parolees shall be under the sole legal custody and jurisdiction of local county facilities. A parolee shall remain under the sole legal custody and jurisdiction of the local county or local correctional administrator, even if placed in an alternative custody program in lieu of incarceration, including, but not limited to, work furlough and electronic home detention. When a parolee is under the legal custody and jurisdiction of a county facility awaiting parole revocation proceedings or upon revocation, he or she shall not be under the parole supervision or jurisdiction of the department. Unless otherwise serving a period of flash incarceration, whenever a parolee who is subject to this section has been arrested, with or without a warrant or the filing of a petition for revocation with the court, the court may order the release of the parolee from custody under any terms and conditions the court deems appropriate. When released from the county facility or county alternative custody program following a period of custody for revocation of parole or because no violation of parole is found, the parolee shall be returned to the parole supervision of the department for the duration of parole.

(b) Inmates paroled pursuant to Section 3000.1 may be returned to prison following the revocation of parole by the Board of Parole Hearings until July 1, 2013, and thereafter by a court pursuant to Section 3000.08.

(c) A parolee who is subject to subdivision (a), but who is under 18 years of age, may be housed in a facility of the Division of Juvenile Facilities, Department of Corrections and Rehabilitation.

SEC. 239.

Section 4030 of the Penal Code is amended to read:

4030.

(a)

(1) The Legislature finds and declares that law enforcement policies and practices for conducting strip or body cavity searches of detained persons vary widely throughout California. Consequently, some people have been arbitrarily subjected to unnecessary strip and body cavity searches after arrests for minor misdemeanor and infraction offenses. Some present search practices violate state and federal constitutional rights to privacy and freedom from unreasonable searches and seizures.

(2) It is the intent of the Legislature in enacting this section to protect the state and federal constitutional rights of the people of California by establishing a statewide policy strictly limiting strip and body cavity searches.

(b) This section applies only to prearraignment detainees arrested for infraction or misdemeanor offenses and to any minor detained prior to a detention hearing on the grounds that he or she is a person described in *Section 300, 601, or 602 of the Welfare and Institutions Code* alleged to have committed a misdemeanor or infraction offense. This section does not apply to a person in the custody of the Secretary of the Department of Corrections and Rehabilitation or the Director of the Division of Juvenile Justice in the Department of Corrections and Rehabilitation.

(c) As used in this section the following definitions apply:

(1) “Body cavity” only means the stomach or rectal cavity of a person, and vagina of a female person.

(2) “Physical body cavity search” means physical intrusion into a body cavity for the purpose of discovering any object concealed in the body cavity.

(3) “Strip search” means a search which requires a person to remove or arrange some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.

(4) “Visual body cavity search” means visual inspection of a body cavity.

(d) Notwithstanding any other law, including *Section 40304.5 of the Vehicle Code*, when a person is arrested and taken into custody, that person may be subjected to patdown searches, metal detector searches, and thorough clothing searches in order to discover and retrieve concealed weapons and contraband substances prior to being placed in a booking cell.

(e) A person arrested and held in custody on a misdemeanor or infraction offense, except those involving weapons, controlled substances, or violence, or a minor detained prior to a detention hearing on the grounds that he or she is a person described in *Section 300, 601, or 602 of the Welfare and Institutions Code*, except for those minors alleged to have committed felonies or offenses involving weapons, controlled substances, or violence, shall not be subjected to a strip search or visual body cavity search prior to placement in the general jail population, unless a peace officer has determined there is reasonable suspicion, based on specific and articulable facts, to believe that person is concealing a weapon or contraband, and a strip search will result in the discovery of the weapon or contraband. A strip search or visual body cavity search, or both, shall not be conducted without the prior written authorization of the supervising officer on duty. The authorization shall include the specific and articulable facts and circumstances upon which the reasonable suspicion determination was made by the supervisor.

(f)

(1) Except pursuant to the provisions of paragraph (2), a person arrested and held in custody on a misdemeanor or infraction offense not involving weapons, controlled substances, or violence, shall not be confined in the general jail population unless all of the following are true:

(A) The person is not cited and released.

(B) The person is not released on his or her own recognizance pursuant to Article 9 (commencing with Section 1318) of Chapter 1 of Title 10 of Part 2.

(C) The person is not able to post bail within a reasonable time, not less than three hours.

(2) A person shall not be housed in the general jail population prior to release pursuant to the provisions of paragraph (1) unless a documented emergency exists and there is no reasonable alternative to that placement. The person shall be placed in the general population only upon prior written authorization documenting the specific facts and circumstances of the emergency. The written authorization shall be signed by the uniformed supervisor of the facility or by a uniformed watch commander. A person confined in the general jail population pursuant to paragraph (1) shall retain all rights to release on citation, his or her own recognizance, or bail that were preempted as a consequence of the emergency.

(g) A person arrested on a misdemeanor or infraction offense, or a minor described in subdivision (b), shall not be subjected to a physical body cavity search except under the authority of a search warrant issued by a magistrate specifically authorizing the physical body cavity search.

(h) A copy of the prior written authorization required by subdivisions (e) and (f) and the search warrant required by subdivision (g) shall be placed in the agency’s records and made available, on request, to the person searched or his or her authorized representative. With regard to a strip search or visual or physical body cavity search, the time, date, and place of the search, the name

and sex of the person conducting the search, and a statement of the results of the search, including a list of items removed from the person searched, shall be recorded in the agency's records and made available, upon request, to the person searched or his or her authorized representative.

(i) Persons conducting a strip search or a visual body cavity search shall not touch the breasts, buttocks, or genitalia of the person being searched.

(j) A physical body cavity search shall be conducted under sanitary conditions, and only by a physician, nurse practitioner, registered nurse, licensed vocational nurse, or emergency medical technician Level II licensed to practice in this state. A physician engaged in providing health care to detainees and inmates of the facility may conduct physical body cavity searches.

(k) A person conducting or otherwise present or within sight of the inmate during a strip search or visual or physical body cavity search shall be of the same sex as the person being searched, except for physicians or licensed medical personnel.

(l) All strip, visual, and physical body cavity searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedure require them to be present at the time the search is conducted.

(m) A person who knowingly and willfully authorizes or conducts a strip search or visual or physical body cavity search in violation of this section is guilty of a misdemeanor.

(n) This section shall not be construed as limiting the common law or statutory rights of a person regarding an action for damages or injunctive relief, or as precluding the prosecution under another law of a peace officer or other person who has violated this section.

(o) Any person who suffers damage or harm as a result of a violation of this section may bring a civil action to recover actual damages, or one thousand dollars ($ 1,000), whichever is greater. In addition, the court may, in its discretion, award punitive damages, equitable relief as it deems necessary and proper, and costs, including reasonable attorney's fees.

SEC. 240.

*Section 4031 of the Penal Code*is amended to read:

4031.

(a) This section applies to all minors detained in a juvenile detention center on the grounds that he or she is a person described in *Section 300, 601, or 602 of the Welfare and Institutions Code*, and all minors adjudged a ward of the court and held in a juvenile detention center on the grounds he or she is a person described in *Section 300, 601, or 602 of the Welfare and Institutions Code*.

(b) Persons conducting a strip search or a visual body cavity search shall not touch the breasts, buttocks, or genitalia of the person being searched.

(c) A physical body cavity search shall be conducted under sanitary conditions, and only by a physician, nurse practitioner, registered nurse, licensed vocational nurse, or emergency medical technician Level II licensed to practice in this state. A physician engaged in providing health care to detainees, wards, and inmates of the facility may conduct physical body cavity searches.

(d) A person conducting or otherwise present or within sight of the inmate during a strip search or visual or physical body cavity search shall be of the same sex as the person being searched, except for physicians or licensed medical personnel.

(e) All strip searches and visual and physical body cavity searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedure require them to be present at the time the search is conducted.

(f) A person who knowingly and willfully authorizes or conducts a strip search and visual or physical body cavity search in violation of this section is guilty of a misdemeanor.

(g) This section shall not be construed as limiting the common law or statutory rights of a person regarding an action for damages or injunctive relief, or as precluding the prosecution under another law of a peace officer or other person who has violated this section.

(h) Any person who suffers damage or harm as a result of a violation of this section may bring a civil action to recover actual damages, or one thousand dollars ($ 1,000), whichever is greater. In addition, the court may, in its discretion, award punitive damages, equitable relief as it deems necessary and proper, and costs, including reasonable attorney's fees.

(i) This section does not limit the protections granted by Section 4030 to individuals described in subdivision (b) of that section.

SEC. 241.

Section 5065.5 of the Penal Code is amended to read:

5065.5.

(a) A person or entity that enters into a contract with a criminal offender for the sale of the story of a crime for which the offender was convicted shall notify the California Department of Corrections and Rehabilitation that the parties have entered into a contract for sale of the offender's story if both of the following conditions are met:

(1) The offender's conviction was for any offense specified in paragraph (1), except voluntary manslaughter, (2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or (35) of subdivision (c) of Section 1192.7.

(2) Subdivision (b) of *Section 340.3 of the Code of Civil Procedure* does not preclude commencement of a civil action against the criminal offender.

(b) Within 90 days of being notified, the California Department of Corrections and Rehabilitation shall notify the victim, or if the victim cannot be reasonably notified, a member of the victim's immediate family, who has requested notification of the existence of a contract described by this section.

(c) For purposes of this section, "member of the victim's immediate family" means a spouse, child, parent, sibling, grandchild, or grandparent.

SEC. 242.

Section 15003 of the Penal Code is amended to read:

15003. Peace officer memorial ceremonies, including the dedication of the memorial and any subsequent ceremonies, shall be conducted by the California Peace Officers' Memorial Foundation, Inc.

SEC. 243.

Section 33880 of the Penal Code is amended to read:

33880.

(a) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm or ammunition.

(b) The fee under subdivision (a) shall not exceed the actual costs incurred for the expenses directly related to taking possession of a firearm or ammunition, storing the firearm or ammunition, and surrendering possession of the firearm or ammunition to a licensed firearms dealer or to the owner.

(c) The administrative costs described in subdivisions (a) and (b) may be waived by the local or state agency upon verifiable proof that the firearm or ammunition was reported stolen at the time the firearm came into the custody or control of the law enforcement agency.

(d) The following apply to any charges imposed for administrative costs pursuant to this section:

(1) The charges shall only be imposed on the person claiming title to the firearm or ammunition.

(2) Any charges shall be collected by the local or state authority only from the person claiming title to the firearm or ammunition.

(3) The charges shall be in addition to any other charges authorized or imposed pursuant to this code.

(4) A charge shall not be imposed for a hearing or appeal relating to the removal, impound, storage, or release of a firearm or ammunition, unless that hearing or appeal was requested in writing by the legal owner of the firearm or ammunition. In addition, the charge may be imposed only upon the person requesting that hearing or appeal.

(e) Costs for a hearing or appeal related to the release of a firearm or ammunition shall not be charged to the legal owner who redeems the firearm or ammunition, unless the legal owner voluntarily requests the poststorage hearing or appeal. A city, county, city and county, or state agency shall not require a legal owner to request a poststorage hearing as a requirement for release of the firearm or ammunition to the legal owner.

SEC. 244.

Section 1490 of the Probate Code is amended to read:

1490. Except as set forth in Section 1510.1, when used in any statute of this state with reference to an adult or to the person of a married minor, “guardian” means the conservator of that adult or the conservator of the person in the case of the married minor.

SEC. 245.

Section 1510.1 of the Probate Code is amended to read:

1510.1.

(a)

(1) With the consent of the proposed ward, the court may appoint a guardian of the person for an unmarried individual who is 18 years of age or older, but who has not yet attained 21 years of age, in connection with a petition to make the necessary findings regarding special immigrant juvenile status pursuant to subdivision (b) of *Section 155 of the Code of Civil Procedure.*

(2) A petition for guardianship of the person of a proposed ward who is 18 years of age or older, but who has not yet attained 21 years of age, may be filed by a relative or any other person on behalf of the proposed ward, or the proposed ward.

(b)

(1) At the request of, or with the consent of, the ward, the court may extend an existing guardianship of the person for a ward past 18 years of age, for purposes of allowing the ward to complete the application process with the United States Citizenship and Immigration Services for classification as a special immigrant juvenile pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

(2) A relative or any other person on behalf of a ward, or the ward, may file a petition to extend the guardianship of the person for a period of time not to extend beyond the ward reaching 21 years of age.

(c) This section does not authorize the guardian to abrogate any of the rights that a person who has attained 18 years of age may have as an adult under state law, including, but not limited to, decisions regarding the ward's medical treatment, education, or residence, without the ward's express consent.

(d) For purposes of this division, the terms "child," "minor," and "ward" include an unmarried individual who is younger than 21 years of age and who, pursuant to this section, consents to the appointment of a guardian or extension of a guardianship after he or she attains 18 years of age.

(e) The Judicial Council shall, by July 1, 2016, adopt any rules and forms needed to implement this section.

SEC. 246.

*Section 1828 of the Probate Code*is amended to read:

1828.

(a) Except as provided in subdivision (c), before the establishment of a conservatorship of the person or estate, or both, the court shall inform the proposed conservatee of all of the following:

(1) The nature and purpose of the proceeding.

(2) The establishment of a conservatorship is a legal adjudication of the proposed conservatee's inability to properly provide for his or her personal needs or to manage the conservatee's own financial resources, or both, depending on the allegations made and the determinations requested in the petition, and the effect of such an adjudication on the proposed conservatee's basic rights.

(3)

(A) The proposed conservatee may be disqualified from voting pursuant to *Section 2208 of the Elections Code* if he or she is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process.

(B) The proposed conservatee shall not be disqualified from voting on the basis that he or she does, or would need to do, any of the following to complete an affidavit of voter registration:

(i) Signs the affidavit of voter registration with a mark or a cross pursuant to subdivision (b) of Section 2150 of the Elections Code.

(ii) Signs the affidavit of voter registration by means of a signature stamp pursuant to *Section 354.5 of the Elections Code*.

(iii) Completes the affidavit of voter registration with the assistance of another person pursuant to subdivision (d) of Section 2150 of the Elections Code.

(iv) Completes the affidavit of voter registration with reasonable accommodations.

(4) The identity of the proposed conservator.

(5) The nature and effect on the proposed conservatee's basic rights of any order requested under Chapter 4 (commencing with Section 1870), and in the case of an allegedly developmentally disabled adult, the specific effects of each limitation requested in such order.

(6) The proposed conservatee has the right to oppose the proceeding, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(b) After the court so informs the proposed conservatee and before the establishment of the conservatorship, the court shall consult the proposed conservatee to determine the proposed conservatee's opinion concerning all of the following:

(1) The establishment of the conservatorship.

(2) The appointment of the proposed conservator.

(3) Any order requested under Chapter 4 (commencing with Section 1870), and in the case of an allegedly developmentally disabled adult, of each limitation requested in such order.

(c) This section does not apply where both of the following conditions are satisfied:

(1) The proposed conservatee is absent from the hearing and is not required to attend the hearing under subdivision (a) of Section 1825.

(2) Any showing required by Section 1825 has been made.

SEC. 247.

Section 1851 of the Probate Code is amended to read:

1851.

(a)

(1) If court review is required pursuant to Section 1850, the court investigator shall, without prior notice to the conservator except as ordered by the court for necessity or to prevent harm to the conservatee, visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine all of the following:

(A) If the conservatee wishes to petition the court for termination of the conservatorship.

(B) If the conservatee is still in need of the conservatorship.

(C) If the conservator is acting in the best interests of the conservatee. In determining if the conservator is acting in the best interests of the conservatee, the court investigator's evaluation shall include an examination of the conservatee's placement, the quality of care, including physical and mental treatment, and the conservatee's finances. To the extent practicable, the investigator shall review the accounting with a conservatee who has sufficient capacity. To the greatest extent possible, the court investigator shall interview individuals set forth in paragraph (1) of subdivision (a) of Section 1826, in order to determine if the conservator is acting in the best interests of the conservatee.

(D)

(i) If the conservatee is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process and may be disqualified from voting pursuant to *Section 2208 or 2209 of the Elections Code*.

(ii) The conservatee shall not be disqualified from voting on the basis that he or she does, or would need to do, any of the following to complete an affidavit of voter registration:

(I) Signs the affidavit of voter registration with a mark or a cross pursuant to subdivision (b) of Section 2150 of the Elections Code.

(II) Signs the affidavit of voter registration by means of a signature stamp pursuant to *Section 354.5 of the Elections Code*.

(III) Completes the affidavit of voter registration with the assistance of another person pursuant to subdivision (d) of Section 2150 of the Elections Code.

(IV) Completes the affidavit of voter registration with reasonable accommodations.

(2) If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine if the present condition of the conservatee is such that the terms of the order should be modified or the order revoked.

(3) Upon request of the court investigator, the conservator shall make available to the court investigator during the investigation for inspection and copying all books and records, including receipts and any expenditures, of the conservatorship.

(b)

(1) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days before the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court. A copy of the report, modified as set forth in paragraph (2), also shall be mailed to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and if there are no such relatives, to the next closest relative, unless the court determines that the mailing will harm the conservatee.

(2) Confidential medical information and confidential information from the California Law Enforcement Telecommunications System shall be in a separate attachment to the report and shall not be provided in copies sent to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and if there are no such relatives, to the next closest relative.

(c) In the case of a limited conservatee, the court investigator shall recommend continuing or terminating the limited conservatorship.

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine if the conservator is acting in the best interests of the conservatee.

(e) The report required by this section shall be confidential and shall be made available only to parties, persons described in subdivision (b), persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The clerk of the court shall limit disclosure of the report exclusively to persons entitled to the report under this section.

(f) A superior court is not required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes of 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 248.

Section 4788 of the Probate Code is amended to read:

4788.

(a) For purposes of this section:

(1) “Authority” means the Emergency Medical Services Authority.

(2) “Authorized user” means a person authorized by the authority to submit information to, or to receive information from, the POLST eRegistry Pilot, including health care providers, as defined in Section 4781, and their designees.

(3) “POLST” means a Physician Orders for Life Sustaining Treatment that fulfills the requirements, in any format, of Section 4780.

(4) “POLST eRegistry Pilot” means the California POLST eRegistry Pilot program established pursuant to this section to make electronic, in addition to other modes of submission and transmission, POLST information available to authorized users.

(b)

(1) The authority shall establish a pilot project, in consultation with stakeholders, to operate an electronic registry system on a pilot basis, to be known as the California POLST eRegistry Pilot, for the purpose of collecting a patient’s POLST information received from a physician or physician’s designee and disseminating the information to an authorized user.

(2) The authority shall implement this section only after determining that sufficient nonstate funds are available to allow for the development of the POLST eRegistry Pilot, any related startup costs, and an evaluation of the POLST eRegistry Pilot.

(3) The authority shall coordinate the POLST eRegistry Pilot, which shall be operated by, and as a part of, the health information exchange networks, or by an independent contractor, or by a combination thereof. The POLST eRegistry Pilot may operate in a single geographic area or multiple geographic areas and may test various methods of making POLST information available electronically. The design of the POLST eRegistry Pilot shall be sufficiently robust, based on the success of the pilot, to inform the permanent, statewide operation of a POLST eRegistry.

(4) The authority shall adopt guidelines necessary for the operation of the POLST eRegistry Pilot. In developing these guidelines, the authority shall seek input from interested parties and hold at least one public meeting. The adoption, amendment, or repeal of the guidelines authorized by this paragraph is hereby exempted from 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 guidelines shall include, but not be limited to, the following:

(A) The means by which initial or subsequent POLST information may be submitted to, or withdrawn from, the POLST eRegistry Pilot, which shall include a method for electronic delivery of this information and the use of legally sufficient electronic signatures.

(B) Appropriate and timely methods by which the information in the POLST eRegistry Pilot may be disseminated to an authorized user.

(C) Procedures for verifying the identity of an authorized user.

(D) Procedures to ensure the accuracy of, and to appropriately protect the confidentiality of, POLST information submitted to the POLST eRegistry Pilot.

(E) The requirement that a patient, or, when appropriate, his or her legally recognized health care decisionmaker, receive a confirmation or a receipt that the patient’s POLST information has been received by the POLST eRegistry Pilot.

(F) The ability of a patient, or, when appropriate, his or her legally recognized health care decisionmaker, with the patient’s health care provider, as defined in Section 4621, to modify or withdraw POLST information on the POLST eRegistry Pilot.

(5)

(A) Prior to implementation of the POLST eRegistry Pilot, the authority shall submit a detailed plan to the Legislature that explains how the POLST eRegistry Pilot will operate.

(B) The plan to be submitted pursuant to subparagraph (A) shall be submitted in compliance with *Section 9795 of the Government Code*.

(c) The operation of the POLST eRegistry Pilot, for all users, shall comply with state and federal privacy and security laws and regulations, including, but not limited to, compliance with the Confidentiality of Medical Information Act (Part 2.6 (commencing with *Section 56) of Division 1 of the Civil Code*) and the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (*Public Law 104-191*), found at Parts 160 and 164 of Title 45 of the Code of Federal Regulations.

(d) When the POLST eRegistry Pilot is operable in the geographic area in which he or she practices or operates, a physician or physician's designee who completes POLST information with a patient or his or her legally recognized health care decisionmaker shall include the POLST information in the patient's official medical record and shall submit a copy of the POLST form to, or enter the POLST information into, the POLST eRegistry Pilot, unless the patient or the legally recognized health care decisionmaker chooses not to participate in the POLST eRegistry Pilot.

(e) When the POLST eRegistry Pilot is operable in the geographic area in which they practice or operate, physicians, hospitals, and health information exchange networks shall make electronic POLST information available, for use during emergencies, through the POLST eRegistry Pilot to health care providers, as defined in Section 4781, that also practice or operate in a geographic area where the POLST eRegistry Pilot is operable, but that are outside of their health information exchange networks.

(f) In accordance with Section 4782, a health care provider, as defined in Section 4781, who honors a patient's request regarding resuscitative measures obtained from the POLST eRegistry Pilot shall not be subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, if the health care provider (1) believes in good faith that the action or decision is consistent with this part, and (2) has no knowledge that the action or decision would be inconsistent with a health care decision that the individual signing the request would have made on his or her own behalf under like circumstances.

(g) An independent contractor approved by the authority shall perform an evaluation of the POLST eRegistry Pilot.

(h) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 249.

*Section 5203 of the Probate Code*is amended to read:

5203.

(a) Words in substantially the following form in a signature card, passbook, contract, or instrument evidencing an account, or words to the same effect, executed before, on, or after July 1, 1990, create the following accounts:

(1) Joint account: "This account or certificate is owned by the named parties. Upon the death of any of them, ownership passes to the survivor(s)."

(2) P.O.D. account with single party: "This account or certificate is owned by the named party. Upon the death of that party, ownership passes to the named pay-on-death payee(s)."

(3) P.O.D. account with multiple parties: “This account or certificate is owned by the named parties. Upon the death of any of them, ownership passes to the survivor(s). Upon the death of all of them, ownership passes to the named pay-on-death payee(s).”

(4) Joint account of husband and wife with right of survivorship: “This account or certificate is owned by the named parties, who are husband and wife, and is presumed to be their community property. Upon the death of either of them, ownership passes to the survivor.”

(5) Community property account of husband and wife: “This account or certificate is the community property of the named parties who are husband and wife. The ownership during lifetime and after the death of a spouse is determined by the law applicable to community property generally and may be affected by a will.”

(6) Tenancy in common account: “This account or certificate is owned by the named parties as tenants in common. Upon the death of any party, the ownership interest of that party passes to the named pay-on-death payee(s) of that party or, if none, to the estate of that party.”

(b) Use of the form language provided in this section is not necessary to create an account that is governed by this part. If the contract of deposit creates substantially the same relationship between the parties as an account created using the form language provided in this section, this part applies to the same extent as if the form language had been used.

SEC. 250.

Section 16062 of the Probate Code is amended to read:

16062.

(a) Except as otherwise provided in this section and in Section 16064, the trustee shall account at least annually, at the termination of the trust, and upon a change of trustee, to each beneficiary to whom income or principal is required or authorized in the trustee’s discretion to be currently distributed.

(b) A trustee of a living trust created by an instrument executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a).

(c) A trustee of a trust created by a will executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a), except that if the trust is removed from continuing court jurisdiction pursuant to Article 2 (commencing with Section 17350) of Chapter 4 of Part 5, the duty to account provided by subdivision (a) applies to the trustee.

(d) Except as provided in Section 16064, the duty of a trustee to account pursuant to former Section 1120.1a of the Probate Code (as repealed by Chapter 820 of the Statutes of 1986), under a trust created by a will executed before July 1, 1977, which has been removed from continuing court jurisdiction pursuant to former Section 1120.1a, continues to apply after July 1, 1987. The duty to account under former Section 1120.1a may be satisfied by furnishing an account that satisfies the requirements of Section 16063.

(e) Any limitation or waiver in a trust instrument of the obligation to account is against public policy and shall be void as to any sole trustee who is either of the following:

(1) A disqualified person as defined in former Section 21350.5 (as repealed by Chapter 620 of the Statutes of 2010).

(2) Described in subdivision (a) of Section 21380, but not described in Section 21382.

SEC. 251.

Section 20111.6 of the Public Contract Code is amended to read:

20111.6.

(a) This section applies only to public projects, as defined in subdivision (c) of Section 22002, for which the governing board of the school district uses funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with *Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code*) or any funds received, including funds reimbursed, from any future state school bond for a public project that involves a projected expenditure of one million dollars ($ 1,000,000) or more.

(b) If the governing board of the school district enters into a contract meeting the criteria of subdivision (a), then the governing board of the school district shall require that prospective bidders for a construction contract complete and submit to the governing board of the school district a standardized prequalification questionnaire and financial statement. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements are not public records and shall not be open to public inspection.

(c) The governing board of the school district shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements. This system shall also apply to a person, firm, or corporation that constructs a building described in *Section 17406 or 17407 of the Education Code*.

(d) The questionnaire and financial statement described in subdivision (b), and the uniform system of rating bidders described in subdivision (c), shall cover, at a minimum, the issues covered by the standardized questionnaire and model guidelines for rating bidders developed by the Department of Industrial Relations pursuant to subdivision (a) of Section 20101.

(e) Each prospective bidder shall be furnished by the school district letting the contract with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be disregarded.

(f) A proposal form required pursuant to subdivision (e) shall not be accepted from any person or other entity that is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (b) or from any person or other entity that uses a subcontractor that is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (b), but has not done so at least 10 business days before the date fixed for the public opening of sealed bids or has not been prequalified for at least five business days before that date. The school district may require the completed questionnaire and financial statement for prequalification to be submitted more than 10 business days before the fixed date for the public opening of sealed bids. The school district may also require the prequalification more than five business days before the fixed date.

(g)

(1) The governing board of the school district may establish a process for prequalifying prospective bidders pursuant to this section on a quarterly or annual basis and a prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(2) The governing board of the school district shall establish a process to prequalify a person, firm, or corporation, including, but not limited to, the prime contractor and, if used, an electrical, mechanical, and plumbing subcontractor, to construct a building described in *Section 17406 or 17407 of the Education Code* on a quarterly or annual basis. A prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(h) This section does not preclude the governing board of the school district from prequalifying or disqualifying a subcontractor of any specialty classification described in *Section 7058 of the Business and Professions Code*.

(i) For purposes of this section, bidders shall include both of the following:

(1) A prime contractor, as defined in Section 4113, that is either of the following:

(A) A general engineering contractor described in *Section 7056 of the Business and Professions Code*.

(B) A general building contractor described in *Section 7057 of the Business and Professions Code*.

(2) If utilized, each electrical, mechanical, and plumbing contractor, whether as a prime contractor or as a subcontractor, as defined in Section 4113.

(j) If a public project covered by this section includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors shall be made available by the school district to all bidders at least five business days before the dates fixed for the public opening of sealed bids. The school district may require the list to be made available more than five business days before the fixed dates for the public opening of sealed bids.

(k) For purposes of this section, electrical, mechanical, and plumbing subcontractors are contractors licensed pursuant to *Section 7058 of the Business and Professions Code*, specifically contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 licenses, pursuant to regulations of the Contractors' State License Board.

(l) This section does not apply to a school district with an average daily attendance of less than 2,500.

(m)

(1) This section applies only to contracts awarded on or after January 1, 2014.

(2) The amendments made to this section by Chapter 408 of the Statutes of 2014 apply only to contracts awarded on or after January 1, 2015.

(n)

(1) On or before January 1, 2018, the Director of Industrial Relations shall (A) submit a report to the Legislature evaluating whether, during the years this section has applied to contracts, violations of the Labor Code on school district projects have decreased as compared to the same number of years immediately preceding the enactment of this section, and (B) recommend improvements to the system for prequalifying contractors and subcontractors on school district projects.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with *Section 9795 of the Government Code*.

(o) This section shall become inoperative on January 1, 2019, and, as of July 1, 2019, is repealed.

SEC. 252.

*Section 541.5 of the Public Resources Code*is amended to read:

541.5.

(a) The department shall not close, or propose to close, a state park in the 2012-13 or 2013-14 fiscal year. The commission and the department shall recommend all necessary steps to establish a sustainable funding strategy for the department to the Legislature on or before January 1, 2015.

(b) There is hereby appropriated twenty million five hundred thousand dollars ($ 20,500,000) to the department from the State Parks and Recreation Fund, which shall be available for encumbrance until June 30, 2016, and for liquidation until June 30, 2018, to be expended as follows:

(1) Ten million dollars ($ 10,000,000) shall be available to provide for matching funds pursuant to subdivision (c).

(2) Ten million dollars ($ 10,000,000) shall be available for the department to direct funds to parks that remain at risk of closure or that will keep parks open during the 2012-13 to 2015-16 fiscal years, inclusive. Priority may be given to parks subject to a donor or operating agreement or other contractual arrangement with the department.

(3) Up to five hundred thousand dollars ($ 500,000) shall be available for the department to pay for ongoing audits and investigations as directed by the Joint Legislative Audit Committee, the office of the Attorney General, the Department of Finance, or other state agency.

(c) The department shall match on a dollar-for-dollar basis all financial contributions contributed by a donor pursuant to an agreement for the 2012-13 fiscal year for which the department received funds as of July 31, 2013, and for agreements entered into in the 2013-14 fiscal year. These matching funds shall be used exclusively in the park unit subject to those agreements.

(d) The department shall notify the Joint Legislative Budget Committee in writing not less than 30 days before the expenditure of funds under this section of the funding that shall be expended, the manner of the expenditure, and the recipient of the expenditure.

(e) The prohibition on the closure, or proposed closure, of a state park in the 2012-13 or 2013-14 fiscal year, pursuant to subdivision (a), does not limit or affect the department's authority to enter into an operating agreement, pursuant to Section 5080.42, during the 2012-13 or 2013-14 fiscal year, for purposes of the operation of the entirety of a state park during the 2012-13 or 2013-14 fiscal year.

SEC. 253.

Section 5002.2 of the Public Resources Code is amended to read:

5002.2.

(a)

(1) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan for the unit.

(2) The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

(3) The general plan constitutes a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

(c) Notwithstanding subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, if the construction does not result in the permanent commitment

of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination of these activities at a single unit. Any development is subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) Notwithstanding subdivision (a), the department is not required to prepare a general plan or revise an existing plan for a unit to which new development is necessary to comply with public service delivery obligations, operational or code compliance upgrades, or resource preservation requirements that are compatible with the classification of the unit. The department may instead prepare a management or development plan with appropriate environmental review and analysis.

(e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.

(f) The department may prepare a general plan that includes more than one unit of the state park system for units that are in close proximity to one another and that have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.

SEC. 254.

Section 5071.7 of the Public Resources Code is amended to read:

5071.7.

(a)

(1) In planning the system, the director shall consult with and seek the assistance of the Department of Transportation. The Department of Transportation shall plan and design those trail routes that are in need of construction contiguous to state highways and serve both a transportation and a recreational need.

(2) The Department of Transportation shall install or supervise the installation of signs along heritage corridors consistent with the plan element developed pursuant to this section; provided, however, that it shall neither install nor supervise the installation of those signs until it determines that it has available to it adequate volunteers or funds, or a combination thereof, to install or supervise the installation of the signs, or until the Legislature appropriates sufficient funds for the installation or supervision of installation, whichever occurs first.

(b) The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be prepared and maintained by the Division of Boating and Waterways within the Department of Parks and Recreation pursuant to Article 2.6 (commencing with *Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code*. Those segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1278 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50).

(c) Any element of the plan relating to trails and areas for the use of off-highway motor vehicles shall be prepared and maintained by the Division of Off-Highway Motor Vehicle Recreation pursuant to Chapter 1.25 (commencing with Section 5090.01).

(d) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation, representatives of its California Access Network volunteers, and nonprofit disability access groups to ensure that adequate provision is made for publicizing the potential use of recreational trails, including heritage corridors by physically disabled persons.

SEC. 255.

Section 8750 of the Public Resources Code is amended to read:

8750. Unless the context requires otherwise, the following definitions govern the construction of this division:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to *Section 8670.4 of the Government Code*.

(b) "Barges" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(c)

(1) "Best achievable protection" means the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (A) the protection provided by the measures, (B) the technological achievability of the measures, and (C) the cost of the measures.

(2) It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology that provides the greatest degree of protection taking into consideration (1) processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes that are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Commission" means the State Lands Commission.

(f) "Local government" means any chartered or general law city, chartered or general law county or any city and county.

(g) "Marine facility" means any facility of any kind, other than a vessel, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with *Section 25299.10) of Division 20 of the Health and Safety Code* or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this division, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility." For the purposes of this division, a small craft refueling dock is not a "marine facility."

(h) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (n) of *Section 25270.2 of the Health and Safety Code*.

(i) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Rivers and Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(j) "Nonpersistent oil" means a petroleum-based oil, such as gasoline, diesel, or jet fuel, that evaporates relatively quickly. Specifically, it is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.

(k) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(l) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(m) "Operator" when used in connection with vessels, marine terminals, pipelines, or facilities, means any person or entity that owns, has an ownership interest in, charters, leases, rents, operates, participates in the operation of or uses that vessel, terminal, pipeline, or facility. "Operator" does not include any entity that owns the land underlying the facility or the facility itself, where the entity is not involved in the operations of the facility.

(n) "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(o) "Pipeline" means any pipeline used at any time to transport oil.

(p) "Responsible party" or "party responsible" means either of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility or a person or entity accepting responsibility for the vessel or marine facility.

(q) "Small craft refueling dock" means a fixed facility having tank storage capacity not exceeding 20,000 gallons in any single storage tank and that dispenses nonpersistent oil to small craft.

(r) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil not authorized by any federal, state, or local government entity.

(s) "State oil spill contingency plan" means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with *Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code*.

(t) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(u) "Vessel" means a tanker or barge as defined in this section.

SEC. 256.

Section 25401 of the Public Resources Code is amended to read:

25401. The commission shall continuously carry out studies, research projects, data collection, and other activities required to assess the nature, extent, and distribution of energy resources to meet the needs of the state, including but not limited to, fossil fuels and solar, nuclear, and geothermal energy resources. It shall also carry out studies, technical assessments, research projects, and data collection

directed to reducing wasteful, inefficient, unnecessary, or uneconomic uses of energy, including, but not limited to, all of the following:

(a) Pricing of electricity and other forms of energy.

(b) Improved building design and insulation.

(c) Restriction of promotional activities designed to increase the use of electricity by consumers.

(d) Improved appliance efficiency.

(e) Advances in power generation and transmission technology.

(f)

Comparisons in the efficiencies of alternative methods of energy utilization.

The commission shall survey pursuant to this section all forms of energy on which to base its recommendations to the Governor and Legislature for elimination of waste or increases in efficiency for sources or uses of energy. The commission shall transmit to the Governor and the Legislature, as part of the biennial report specified in Section 25302, recommendations for state policy and actions for the orderly development of all potential sources of energy to meet the state's needs, including, but not limited to, fossil fuels and solar, nuclear, and geothermal energy resources, and to reduce wasteful and inefficient uses of energy.

SEC. 257.

Section 26003 of the Public Resources Code, as amended by Section 1.5 of Chapter 788 of the Statutes of 2015, is amended to read:

26003. (a) As used in this division, unless the context otherwise requires:

(1)

(A) "Advanced manufacturing" means manufacturing processes that improve existing or create entirely new materials, products, and processes through the use of science, engineering, or information technologies, high-precision tools and methods, a high-performance workforce, and innovative business or organizational models utilizing any of the following technology areas:

(i) Microelectronics and nanoelectronics, including semiconductors.

(ii) Advanced materials.

(iii) Integrated computational materials engineering.

(iv) Nanotechnology.

(v) Additive manufacturing.

(vi) Industrial biotechnology.

(B) "Advanced manufacturing" includes any of the following:

(i) Systems that result from substantive advancement, whether incremental or breakthrough, beyond the current industry standard, in the production of materials and products. These advancements include improvements in manufacturing processes and systems that are often referred to as "smart" or "intelligent" manufacturing systems, which integrate computational predictability and operational efficiency.

(ii)

(I) Sustainable manufacturing systems and manufacturing technologies that minimize the use of resources while maintaining or improving cost and performance.

(II) Sustainable manufacturing systems and manufacturing technologies do not include those required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority to ensure that the requirements of this clause are met.

(2)

(A) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high-value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution and greenhouse gas emissions reduction, and transportation efficiency.

(B) "Advanced transportation technologies" does not include those projects required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority regarding projects that are excluded pursuant to this subparagraph.

(3)

(A) "Alternative sources" means devices or technologies used for a renewable electrical generation facility, as defined in paragraph (1) of subdivision (a) of Section 25741, a combined heat and power system, as defined in *Section 2840.2 of the Public Utilities Code*, distributed generation and energy storage technologies eligible under the self-generation incentive program pursuant to *Section 379.6 of the Public Utilities Code*, as determined by the Public Utilities Commission, or a facility designed for the production of renewable fuels, the efficient use of which reduces the use of fossil or nuclear fuels, and energy efficiency devices or technologies that reduce the need for new electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases.

(B) "Alternative sources" does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(4) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(5) "Cost" as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of constructing any project or incidental to the construction, acquisition, or financing of a project.

(6) "Financial assistance" includes, but is not limited to, loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity facilities, contributions of money, or a combination thereof, as determined by, and approved by the resolution of, the board.

(7)

(A) "Participating party" means a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the business or operations in the state, whether organized for profit or not for profit, that applies for financial assistance from the authority for the purpose of implementing a project.

(B)

(i) For purposes of *Section 6010.8 of the Revenue and Taxation Code*, "participating party" means an entity specified in subparagraph (A) that seeks financial assistance pursuant to Section 26011.8.

(ii) For purposes of *Section 6010.8 of the Revenue and Taxation Code*, an entity located outside of the state, including an entity located overseas, is considered to be a participating party and is eligible to apply for financial assistance pursuant to Section 26011.8 if the participating party commits to, and demonstrates that, the party will be opening a manufacturing facility in the state.

(iii) It is the intent of the Legislature by adding clause (ii) to clarify existing law and ensure that an out-of-state entity or overseas entity is eligible to apply for financial assistance pursuant to Section 26011.8.

(8)

(A) "Project" means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment utilized in the state, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies or alternative source components.

(B) "Project," for purposes of Section 26011.8 and *Section 6010.8 of the Revenue and Taxation Code*, is defined in Section 26011.8.

(9) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 258.

Section 26003 of the Public Resources Code, as amended by Section 2.5 of Chapter 788 of the Statutes of 2015, is amended to read:

26003. (a) As used in this division, unless the context otherwise requires:

(1)

(A) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high-value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution and greenhouse gas emissions reduction, and transportation efficiency.

(B) "Advanced transportation technologies" does not include those projects required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations,

memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority regarding projects that are excluded pursuant to this subparagraph.

(2)

(A) "Alternative sources" means devices or technologies used for a renewable electrical generation facility, as defined in paragraph (1) of subdivision (a) of Section 25741, a combined heat and power system, as defined in *Section 2840.2 of the Public Utilities Code*, distributed generation and energy storage technologies eligible under the self-generation incentive program pursuant to *Section 379.6 of the Public Utilities Code*, as determined by the Public Utilities Commission, or a facility designed for the production of renewable fuels, the efficient use of which reduces the use of fossil or nuclear fuels, and energy efficiency devices or technologies that reduce the need for new electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases.

(B) "Alternative sources" does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(3) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(4) "Cost" as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of constructing any project or incidental to the construction, acquisition, or financing of a project.

(5) "Financial assistance" includes, but is not limited to, loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity facilities, contributions of money, or a combination thereof, as determined by, and approved by the resolution of, the board.

(6)

(A) "Participating party" means a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the business or operations in the state, whether organized for profit or not for profit, that applies for financial assistance from the authority for the purpose of implementing a project.

(B)

(i) For purposes of *Section 6010.8 of the Revenue and Taxation Code*, "participating party" means an entity specified in subparagraph (A) that seeks financial assistance pursuant to Section 26011.8.

(ii) For purposes of *Section 6010.8 of the Revenue and Taxation Code*, an entity located outside of the state, including an entity located overseas, is considered to be a participating party and is eligible to apply for financial assistance pursuant to Section 26011.8 if the

participating party commits to, and demonstrates that, the party will be opening a manufacturing facility in the state.

(iii) It is the intent of the Legislature by adding clause (ii) to clarify existing law and ensure that an out-of-state entity or overseas entity is eligible to apply for financial assistance pursuant to Section 26011.8.

(7)

(A) "Project" means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment utilized in the state, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies or alternative source components.

(B) "Project," for purposes of Section 26011.8 and *Section 6010.8 of the Revenue and Taxation Code*, is defined in Section 26011.8.

(8) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

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

SEC. 259.

Section 30411 of the Public Resources Code is amended to read:

30411.

(a) The Department of Fish and Wildlife and the Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery management programs and the commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory requirements or authorization.

(b) The Department of Fish and Wildlife in consultation with the commission and the Division of Boating and Waterways within the Department of Parks and Recreation, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any study conducted under this subdivision shall include consideration of all of the following:

(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve these values.

(c) The Legislature finds and declares that salt water or brackish water aquaculture is a coastal-dependent use which should be encouraged to augment food supplies and to further the policies set forth in Chapter 4 (commencing with Section 825) of Division 1. The Department of Fish and

Wildlife may identify coastal sites it determines to be appropriate for aquaculture facilities. If the Department of Fish and Wildlife identifies these sites, it shall transmit information identifying the sites to the commission and the relevant local government agency. The commission and, where appropriate, local governments shall, consistent with the coastal planning requirements of this division, provide for as many coastal sites identified by the Department of Fish and Wildlife for any uses that are consistent with the policies of Chapter 3 (commencing with Section 30200).

(d) Any agency of the state owning or managing land in the coastal zone for public purposes shall be an active participant in the selection of suitable sites for aquaculture facilities and shall make the land available for use in aquaculture when feasible and consistent with other policies of this division and other law.

SEC. 260.

Section 42023.1 of the Public Resources Code is amended to read:

42023.1.

(a) The Recycling Market Development Revolving Loan Subaccount is hereby created in the account for the purpose of providing loans for purposes of the Recycling Market Development Revolving Loan Program established pursuant to this article and for making payments pursuant to subdivision (g).

(b) Notwithstanding *Section 13340 of the Government Code*, the moneys deposited in the subaccount are hereby continuously appropriated to the department without regard to fiscal year for making loans pursuant to this article and for making payments pursuant to subdivision (g).

(c) The department may expend interest earnings on moneys in the subaccount for administrative expenses incurred in carrying out the Recycling Market Development Revolving Loan Program, upon the appropriation of moneys in the subaccount for that purpose in the annual Budget Act.

(d) The moneys from loan repayments and fees, including, but not limited to, principal and interest repayments, fees and points, recovery of collection costs, income earned on an asset recovered pursuant to a loan default, and funds collected through foreclosure actions shall be deposited in the subaccount.

(e) All interest accruing on interest payments from loan applicants shall be deposited in the subaccount.

(f) The department may expend the moneys in the subaccount to make loans to local governing bodies, private businesses, and nonprofit entities within recycling market development zones, or in areas outside zones where partnerships exist with other public entities to assist local jurisdictions to comply with Section 40051.

(g) The department may expend the moneys in the subaccount to make payments to local governing bodies within a recycling market zone for services related to the promotion of the zone. The services may include, but are not limited to, training, outreach, development of written promotional materials, and technical analyses of feedstock availability.

(h) The department shall not fund a loan until it determines that the applicant has obtained all significant applicable federal, state, and local permits. The department shall determine which applicable federal, state, and local permits are significant.

(i) The department shall establish and collect fees for applications for loans authorized by this section. The application fee shall be set at a level that is sufficient to fund the department's cost of processing applications for loans. In addition, the department shall establish a schedule of fees or points for loans that are entered into by the department, to fund the department's administration of the revolving loan program.

(j) The department may expend moneys in the subaccount for the administration of the Recycling Market Development Revolving Loan Program, upon the appropriation of moneys in the subaccount for that purpose in the annual Budget Act. In addition, the department may expend moneys in the account to administer the revolving loan program, upon the appropriation of moneys in the account for that purpose in the annual Budget Act. However, funding for the administration of the revolving loan program from the account shall be provided only if there are not sufficient moneys in the subaccount to fully fund the administration of the program.

(k) The department, pursuant to subdivision (a) of Section 47901, may set aside moneys for the purposes of paying costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but not be limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, attorney's fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(l)

(1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2021, and as of January 1, 2022, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2022, deletes or extends the date on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 261.

Section 71103.5 of the Public Resources Code is amended to read:

71103.5.

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

(1) The New River poses an imminent and severe threat to the public health of residents of Calexico, California, and adjacent communities in Imperial County. Since the 1940s, the New River has been recognized as a significant pollution and human health problem, primarily because of extremely high concentrations of fecal coliform bacteria.

(2) While there have been recent measurable water quality improvements as a result of sewage infrastructure projects implemented and completed during the last 10 years in Mexicali, Mexico, the residual and projected pollution in the New River coming from Mexico remains a significant threat to public health and the environment.

(3) Current bacteria levels in the New River are several orders of magnitude above the state standards for bacteria. Based on these levels and the historic levels of pollution, the waterway is believed to carry pathogens that cause tuberculosis, encephalitis, polio, cholera, hepatitis, and typhoid. The waterway also carries other contaminants in concentrations that are in violation of federal, state, and Mexican water quality standards by several hundredfold.

(4) The New River is listed as an impaired river by the United States Environmental Protection Agency due to low dissolved oxygen (DO) and the presence of chlordane, chlorpyrifos, copper, dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin, mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs), sediment, selenium, toxaphene, toxicity, trash, and volatile organic compounds (VOCs).

(5) The New River is a major contributor of pollution to the Salton Sea, and failure to address water quality problems in the New River is impeding the ability of the state to implement laws

and programs designed to restore and protect this important environmental and wildlife habitat resource.

(6) The New River condition in the border area is also an aesthetic nuisance for Calexico residents and has historically inhibited the city's socioeconomic well-being and growth.

(7) A coordinated and comprehensive state strategy is needed to deal with the residual and projected pollution so that the New River and associated river channel can be enhanced to a condition that will allow the residents of Calexico and Imperial County to utilize them as recreational and natural assets as contemplated in the California River Parkways Act of 2004 (Chapter 3.8 (commencing with Section 5750) of Division 5).

(8) In the Budget Act of 2009, as amended by Chapter 1 of the Statutes of 2009 Fourth Extraordinary Session, eight hundred thousand dollars ($ 800,000) was appropriated to the City of Calexico for various planning needs necessary to develop a river parkway plan and river improvement project for the New River. The moneys were appropriated in order to secure and serve as matching funds for the four million dollars ($ 4,000,000) allocated pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (*Public Law 109-59*) to the City of Calexico for the development of bicycle paths and public park space adjacent to the New River.

(9) The City of Calexico, as the recipient of funding pursuant to the California River Parkways Act of 2004, has agreed to provide necessary financial support to the council for the development of the council's strategic plan.

(b) As used in this section, the following terms have the following meanings:

(1) "Agency" means the California Environmental Protection Agency.

(2) "City" means the City of Calexico, California.

(3) "Council" means the California-Mexico Border Relations Council established pursuant to *Section 99522 of the Government Code*.

(4) "County" means the County of Imperial, California.

(5) "IBWC" means the International Boundary and Water Commission, United States Section.

(6) "New River Improvement Project" or "project" means a project to study, monitor, remediate, and enhance New River water quality in the County of Imperial to protect human health, and develop a river parkway suitable for public use and enjoyment.

(c) Pursuant to the authority granted to the council pursuant to *Section 99523 of the Government Code* and contingent upon the execution of an agreement with the City of Calexico for the purpose of providing the necessary funding, the council shall develop a strategic plan to guide the implementation of the New River Improvement Project. The strategic plan shall include, but need not be limited to, all of the following elements:

(1) Quantification of current and projected New River water quality impairments and their threat to public health.

(2) Prioritization of the actions necessary to protect public health and to meet New River water quality objectives and other environmental goals, such as improving the quality of waterflows into the Salton Sea.

(3) Identification of potential funds for the implementation of the project, and potential lead agencies that would be responsible for environmental review of activities related to the cleanup and restoration of the New River.

(4) Identification of the appropriate federal, state, and local agencies with a role in implementing and achieving the New River Improvement Project.

(d)

(1) To the extent permitted by law, the council may work with appropriate binational, federal, state, local, and nongovernmental organizations on both sides of the California-Mexico border to develop the strategic plan and to fund and establish cooperative water quality monitoring, public health studies, inspection, and technical assistance programs as needed to support, convene, and oversee the project.

(2) To further the objectives of this subdivision, the council may convene and oversee a technical advisory committee. The advisory committee shall advise the council regarding the necessary studies and activities to carry out the project, and shall serve at the pleasure of the council. The advisory committee shall include representatives from the following:

(A) Impacted cities and counties.

(B) Relevant local, regional, and state agencies and departments.

(C) Nongovernmental organizations.

(D) Other stakeholders deemed necessary by the council.

(3) The council shall appoint the chair of the committee and may expand the membership and expertise of the committee as it deems necessary.

(4) The council may enter into an agreement, including an interagency agreement and memorandum of understanding, with public agencies, including the city, to accept, manage, and expend funds for the implementation of this section.

(e) This section does not modify existing roles, responsibilities, or liabilities of the State of California, the City of Calexico, Imperial County, or any other governmental agency, under those laws that regulate, protect, and clean up surface waters entering the United States from Mexico.

(f) The New River Improvement Project Account is hereby created in the California Border Environmental and Public Health Protection Fund to receive moneys for activities related to the New River Improvement Project from sources identified in Section 71101 and other sources. Upon appropriation by the Legislature, moneys in the account shall be expended to implement the purposes identified in subdivision (c) or Section 71102 that are related to the New River.

SEC. 262.

Section 274 of the Public Utilities Code is amended to read:

274. The commission may on its own order, whenever it determines it to be necessary, conduct financial audits of the revenues required to be collected and submitted to the commission for each of the funds specified in Section 270. The commission may on its own order, whenever it determines it to be necessary, conduct compliance audits on the compliance with commission orders with regard to each program subject to this chapter. The commission shall conduct a financial and compliance audit of program-related costs and activities at least once every three years. The first three-year period for a financial and compliance audit commences on July 1, 2002. The second and subsequent three-year periods for financial audits commence three years after the completion of the prior financial audit. The second and subsequent three-year periods for compliance audits commence three years after the completion of the prior compliance audit. The commission may contract with the California State Auditor's Office or the Department of Finance for all necessary auditing services. All costs for audits shall be paid from the fund that supports the activities of the board audited and shall be subject to the availability of money in that fund.

SEC. 263.

Section 387.8 of the Public Utilities Code is amended and renumbered to read:

2854.5.

Notwithstanding paragraphs (2) and (5) of subdivision (d) of Section 2854, a local publicly owned electric utility may adopt, implement, and finance a solar initiative program otherwise in accordance with that section, using monetary incentives authorized by subdivision (b) of Section 2854, to residential and business consumers where consumers offset part or all of their electricity demand with electricity generated by a solar energy system not located on the premises of the consumer, if all of the following requirements are met:

(a) The solar energy system meets all of the following conditions:

(1) It is located within the service territory of the local publicly owned electric utility.

(2) It has a capacity of no more than five megawatts.

(3) It is interconnected to the local publicly owned electric utility's system at the distribution level.

(b) The local publicly owned electric utility meets all of the following conditions:

(1) It provides monetary incentives authorized by Section 2854 for not more than the first megawatt of generating capacity of each solar energy system.

(2) It has contracted to purchase the total electricity produced by the solar energy system or owns the solar energy system.

(3) It provides no greater incentive per watt for the solar energy system than provided for by systems that participate in the applicable solar initiative program established under Section 2854.

(4) It has received approval for the solar energy system from its governing board at a publicly noticed and held meeting.

(c) The total megawatt capacity of solar energy systems eligible for a local publicly owned electric utility program under this section is both of the following:

(1) Not more than the total megawatt capacity of the combined residential and commercial solar energy systems installed in the service area of the local publicly owned electric utility after July 1, 2010, that participate in the applicable solar initiative programs established under Section 2854.

(2) Not more than 20 percent of the proportionate amount for the local publicly owned electric utility of the overall 3,000 megawatt state goal set forth in Section 2854, based on the percentage of the total statewide load served by that entity.

SEC. 264.

Section 635 of the Public Utilities Code is amended to read:

635. In a long-term plan adopted by an electrical corporation or in a procurement plan implemented by a local publicly owned electric utility, the electrical corporation or local publicly owned electric utility shall adopt a strategy applicable both to newly constructed and repowered generation owned and procured by the electrical corporation or local publicly owned electric utility to achieve efficiency in the use of fossil fuels and to address carbon emissions.

SEC. 265.

Section 873 of the Public Utilities Code is amended to read:

873.

(a) The commission shall annually do all of the following:

(1) Designate a class of lifeline service necessary to meet minimum communications needs.

(2) Set the rates and charges for that service.

(3) Develop eligibility criteria for that service.

(4) Assess the degree of achievement of universal service, including telephone penetration rates by income, ethnicity, and geography.

(b) Minimum communications needs include, but are not limited to, the ability to originate and receive calls and the ability to access electronic information services.

SEC. 266.

Section 913.8 of the Public Utilities Code is amended to read:

913.8.

In the report prepared pursuant to Section 913.7, the commission shall include an assessment of each electrical corporation's and each gas corporation's implementation of the program developed pursuant to *Section 25943 of the Public Resources Code*.

SEC. 267.

Section 1701 of the Public Utilities Code is amended to read:

1701.

(a) All hearings, investigations, and proceedings shall be governed by this part and by rules of practice and procedure adopted by the commission, and in the conduct thereof the technical rules of evidence need not be applied. An informality in a hearing, investigation, or proceeding or in the manner of taking testimony shall not invalidate an order, decision, or rule made, approved, or confirmed by the commission.

(b) Notwithstanding *Section 11425.10 of the Government Code*, Chapter 4.5 (commencing with *Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code* does not apply to a hearing by the commission under this code.

SEC. 268.

Section 2833 of the Public Utilities Code is amended to read:

2833.

(a) The commission shall require a green tariff shared renewables program to be administered by a participating utility in accordance with this section.

(b) Generating facilities participating in a participating utility's green tariff shared renewables program shall be eligible renewable energy resources with a nameplate rated generating capacity not exceeding 20 megawatts, except for those generating facilities reserved for location in areas identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities pursuant to paragraph (1) of subdivision (d), which shall not exceed one megawatt nameplate rated generating capacity.

(c) A participating utility shall use commission-approved tools and mechanisms to procure additional eligible renewable energy resources for the green tariff shared renewables program from electrical generation facilities that are in addition to those required by the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1). For purposes of this subdivision, "commission-approved tools and mechanisms" means those procurement methods approved by the commission for an electrical corporation to procure eligible

renewable energy resources for purposes of meeting the procurement requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

(d) A participating utility shall permit customers within the service territory of the utility to purchase electricity pursuant to the tariff approved by the commission to implement the utility's green tariff shared renewables program, until the utility meets its proportionate share of a statewide limitation of 600 megawatts of customer participation, measured by nameplate rated generating capacity. The proportionate share shall be calculated based on the ratio of each participating utility's retail sales to total retail sales of electricity by all participating utilities. The commission may place other restrictions on purchases under a green tariff shared renewables program, including restricting participation to a certain level of capacity each year. The following restrictions shall apply to the statewide 600 megawatt limitation:

(1)

(A) One hundred megawatts shall be reserved for facilities that are no larger than one megawatt nameplate rated generating capacity and that are located in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities. These communities shall be identified by census tract, and shall be determined to be the most impacted 20 percent based on results from the best available cumulative impact screening methodology designed to identify each of the following:

(i) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.

(ii) Areas with socioeconomic vulnerability.

(B) For purposes of this paragraph, "previously identified" means identified prior to commencing construction of the facility.

(2) Not less than 100 megawatts shall be reserved for participation by residential class customers.

(3) Twenty megawatts shall be reserved for the City of Davis.

(e) To the extent possible, a participating utility shall seek to procure eligible renewable energy resources that are located in reasonable proximity to enrolled participants.

(f) A participating utility's green tariff shared renewables program shall support diverse procurement and the goals of commission General Order 156.

(g) A participating utility's green tariff shared renewables program shall not allow a customer to subscribe to more than 100 percent of the customer's electricity demand.

(h) Except as authorized by this subdivision, a participating utility's green tariff shared renewables program shall not allow a customer to subscribe to more than two megawatts of nameplate generating capacity. This limitation does not apply to a federal, state, or local government, school or school district, county office of education, the California Community Colleges, the California State University, or the University of California.

(i) A participating utility's green tariff shared renewables program shall not allow any single entity or its affiliates or subsidiaries to subscribe to more than 20 percent of any single calendar year's total cumulative rated generating capacity.

(j) To the extent possible, a participating utility shall actively market the utility's green tariff shared renewables program to low-income and minority communities and customers.

(k) Participating customers shall receive bill credits for the generation of a participating eligible renewable energy resource using the class average retail generation cost as established in the

participating utility's approved tariff for the class to which the participating customer belongs, plus a renewables adjustment value representing the difference between the time-of-delivery profile of the eligible renewable energy resource used to serve the participating customer and the class average time-of-delivery profile and the resource adequacy value, if any, of the resource contained in the utility's green tariff shared renewables program. The renewables adjustment value applicable to a time-of-delivery profile of an eligible renewable energy resource shall be determined according to rules adopted by the commission. For these purposes, "time-of-delivery profile" refers to the daily generating pattern of a participating eligible renewable energy resource over time, the value of which is determined by comparing the generating pattern of that participating eligible renewable energy resource to the demand for electricity over time and other generating resources available to serve that demand.

(l) Participating customers shall pay a renewable generation rate established by the commission, the administrative costs of the participating utility, and any other charges the commission determines are just and reasonable to fully cover the cost of procuring a green tariff shared renewables program's resources to serve a participating customer's needs.

(m) A participating customer's rates shall be debited or credited with any other commission-approved costs or values applicable to the eligible renewable energy resources contained in a participating utility's green tariff shared renewables program's portfolio. These additional costs or values shall be applied to new customers when they initially subscribe after the cost or value has been approved by the commission.

(n) Participating customers shall pay all otherwise applicable charges without modification.

(o) A participating utility shall permit a participating customer to subscribe to the program and be provided with a nonbinding estimate of reasonably anticipated bill credits and bill charges, as determined by the commission, for a period of up to 20 years.

(p) A participating utility shall provide support for enhanced community renewables programs to facilitate development of eligible renewable energy resource projects located close to the source of demand.

(q) The commission shall ensure that charges and credits associated with a participating utility's green tariff shared renewables program are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers and ensures that no costs are shifted from participating customers to nonparticipating ratepayers.

(r) A participating utility shall track and account for all revenues and costs to ensure that the utility recovers the actual costs of the utility's green tariff shared renewables program and that all costs and revenues are fully transparent and auditable.

(s) Any renewable energy credits associated with electricity procured by a participating utility for the utility's green tariff shared renewables program and utilized by a participating customer shall be retired by the participating utility on behalf of the participating customer. Those renewable energy credits shall not be further sold, transferred, or otherwise monetized for any purpose. Any renewable energy credits associated with electricity procured by a participating utility for the shared renewable energy self-generation program, but not utilized by a participating customer, shall be counted toward meeting that participating utility's renewables portfolio standard.

(t) A participating utility shall, in the event of participant customer attrition or other causes that reduce customer participation or electrical demand below generation levels, apply the excess generation from the eligible renewable energy resources procured through the utility's green tariff shared renewables program to the utility's renewable portfolio standard procurement obligations or bank the excess generation for future use to benefit all customers in accordance with the renewables portfolio standard banking and procurement rules approved by the commission.

(u) In calculating its procurement requirements to meet the requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1), a participating utility may exclude from total retail sales the kilowatthours generated by an eligible renewable energy resource that is credited to a participating customer pursuant to the utility's green tariff shared renewables program, commencing with the point in time at which the generating facility achieves commercial operation.

(v) All renewable energy resources procured on behalf of participating customers in the participating utility's green tariff shared renewables program shall comply with the State Air Resources Board's Voluntary Renewable Electricity Program. California-eligible greenhouse gas allowances associated with these purchases shall be retired on behalf of participating customers as part of the board's Voluntary Renewable Electricity Program.

(w) A participating utility shall provide a municipality with aggregated consumption data for participating customers within the municipality's jurisdiction to allow for reporting on progress toward climate action goals by the municipality. A participating utility shall also publicly disclose, on a geographic basis, consumption data and reductions in emissions of greenhouse gases achieved by participating customers in the utility's green tariff shared renewables program, on an aggregated basis consistent with privacy protections as specified in Chapter 5 (commencing with Section 8380) of Division 4.1.

(x) This section does not prohibit or restrict a community choice aggregator from offering its own voluntary renewable energy programs to participating customers of the community choice aggregation.

SEC. 269.

Section 2870 of the Public Utilities Code is amended to read:

2870.

(a) As used in this section, the following terms have the following meanings:

(1) "CARE program" means the California Alternate Rates for Energy program established pursuant to Section 739.1.

(2) "Program" means the Multifamily Affordable Housing Solar Roofs Program established pursuant to this chapter.

(3) "Qualified multifamily affordable housing property" means a multifamily residential building of at least five rental housing units that is operated to provide deed-restricted low-income residential housing, as defined in clause (i) of subparagraph (A) of paragraph (3) of subdivision (a) of Section 2852, and that meets one or more of the following requirements:

(A) The property is located in a disadvantaged community, as identified by the California Environmental Protection Agency pursuant to *Section 39711 of the Health and Safety Code*.

(B) At least 80 percent of the households have incomes at or below 60 percent of the area median income, as defined in subdivision (f) of *Section 50052.5 of the Health and Safety Code*.

(4) "Solar energy system" means a solar energy photovoltaic device that meets or exceeds the eligibility criteria established pursuant to *Section 25782 of the Public Resources Code*.

(b)

(1) Adoption and implementation of the Multifamily Affordable Housing Solar Roofs Program may count toward the satisfaction of the commission's obligation to ensure that specific alternatives designed for growth among residential customers in disadvantaged communities

are offered as part of the standard contract or tariff authorized pursuant to paragraph (1) of subdivision (b) of Section 2827.1.

(2) This section does not preclude electrical corporations from offering and administering a distributed energy resource program, including solar energy systems, in disadvantaged communities offered under current or proposed programs using funds provided under subdivision (c) of Section 748.5 or programs proposed to comply with paragraph (1) of subdivision (b) as approved by the commission.

(c) The commission shall annually authorize the allocation of one hundred million dollars ($ 100,000,000) or 10 percent of available funds, whichever is less, from the revenues described in subdivision (c) of Section 748.5 for the Multifamily Affordable Housing Solar Roofs Program, beginning with the fiscal year commencing July 1, 2016, and ending with the fiscal year ending June 30, 2020. The commission shall continue authorizing the allocation of these funds through June 30, 2026, if the commission determines that revenues are available after 2020 and that there is adequate interest and participation in the program.

(d) The commission shall consider the most appropriate program administration structure, including administration by a qualified third-party administrator, selected by the commission through a competitive bidding process, or administration by an electrical corporation, in an existing or future proceeding.

(e) Not more than 10 percent of the funds allocated to the program shall be used for administration.

(f)

(1) By June 30, 2017, the commission shall authorize the award of monetary incentives for qualifying solar energy systems that are installed on qualified multifamily affordable housing properties through December 31, 2030. The target of the program is to install a combined generating capacity of at least 300 megawatts on qualified properties.

(2) The commission shall require that the electricity generated by qualifying solar energy systems installed pursuant to the program be primarily used to offset electricity usage by low-income tenants. These requirements may include required covenants and restrictions in deeds.

(3) The commission shall require that qualifying solar energy systems owned by third-party owners are subject to contractual restrictions to ensure that no additional costs for the system be passed on to low-income tenants at the properties receiving incentives pursuant to the program. The commission shall require third-party owners of solar energy systems to provide ongoing operations and maintenance of the system, monitor energy production, and, where necessary, take appropriate action to ensure that the kWh production levels projected for the system are achieved throughout the period of the third-party agreement. Such actions may include, but are not limited to, providing a performance guarantee of annual production levels or taking corrective actions to resolve underproduction problems.

(4) The commission shall ensure that incentive levels for photovoltaic installations receiving incentives through the program are aligned with the installation costs for solar energy systems in affordable housing markets and take account of federal investment tax credits and contributions from other sources to the extent feasible.

(5) The commission shall require that no individual installation receive incentives at a rate greater than 100 percent of the total system installation costs.

(6) The commission shall establish local hiring requirements for the program to provide economic development benefits to disadvantaged communities.

(7) The commission shall establish energy efficiency requirements that are equal to the energy efficiency requirements established for the program described in Section 2852, including

participation in a federal, state, or utility-funded energy efficiency program or documentation of a recent energy efficiency retrofit.

(g)

(1) Low-income tenants who participate in the program shall receive credits on utility bills from the program. The commission shall ensure that utility bill reductions are achieved through tariffs that allow for the allocation of credits, such as virtual net metering tariffs designed for Multifamily Affordable Solar Housing Program participants, or other tariffs that may be adopted by the commission pursuant to Section 2827.1.

(2) The commission shall ensure that electrical corporation tariff structures affecting the low-income tenants participating in the program continue to provide a direct economic benefit from the qualifying solar energy system.

(h) This chapter is not intended to supplant CARE program rates as the primary mechanism for achieving the goals of the CARE program.

(i) The commission shall determine the eligibility of qualified multifamily affordable housing property tenants that are customers of community choice aggregators.

(j)

(1) On or before July 30, 2020, and by July 30 of every third year thereafter through 2029, the commission shall submit to the Legislature an assessment of the Multifamily Affordable Housing Solar Roofs Program. That assessment shall include the number of qualified multifamily affordable housing property sites that have a qualifying solar energy system for which an award was made pursuant to this chapter and the dollar value of the award, the electrical generating capacity of the qualifying renewable energy system, the bill reduction outcomes of the program for the participants, the cost of the program, the total electrical system benefits, the environmental benefits, the progress made toward reaching the goals of the program, the program's impact on the CARE program budget, and the recommendations for improving the program to meet its goals. The report shall include an analysis of pending program commitments, reservations, obligations, and projected demands for the program to determine whether future ongoing funding allocations for the program are warranted. The report shall also include a summary of the other programs intended to benefit disadvantaged communities, including, but not limited to, the Single-Family Affordable Solar Homes Program, the Multifamily Affordable Solar Housing Program, and the Green Tariff Shared Renewables Program (Chapter 7.6 (commencing with Section 2831)).

(2) Every three years, the commission shall evaluate the program's expenditures, commitments, uncommitted balances, future demands, performance, and outcomes and shall make any necessary adjustments to the program to ensure the goals of the program are being met. If, upon review, the commission finds there is insufficient participation in the program, the commission may credit uncommitted funds back to ratepayers pursuant to Section 748.5.

(3) As part of the annual workplan required pursuant to Section 321.6, the commission shall provide an annual update of the Multifamily Affordable Housing Solar Roofs Program that shall include, but not be limited to, the number of projects approved, number of projects completed, number of pending projects awaiting approval, and geographic distribution of the projects.

SEC. 270.

Section 7661 of the Public Utilities Code is amended to read:

7661.

(a) The commission shall require every railroad corporation operating in this state to develop, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid

communications with the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety.

(b) A railroad corporation shall promptly notify the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies, through a communication to the California State Warning Center of the Office of Emergency Services, if there is a runaway train or any other uncontrolled train movement that threatens public health and safety, in accordance with the railroad corporation's communications protocol developed pursuant to subdivision (a).

(c) The notification required pursuant to subdivision (b) shall include the following information, whether or not an accident or spill occurs:

(1) The information required by subdivision (c) of Section 7673.

(2) In the event of a runaway train, a train list.

(3) In the event of an uncontrolled train movement or uncontrolled movement of railcars, a track list or other inventory document if available.

(d) The division of the commission responsible for consumer protection and safety shall investigate any incident that results in a notification required pursuant to subdivision (b).

SEC. 271.

*Section 8282 of the Public Utilities Code*is amended to read:

8282. For the purposes of this article, the following definitions apply:

(a) "Control" means exercising the power to make policy decisions.

(b) "Disabled veteran business enterprise" has the same meaning as defined in *Section 999 of the Military and Veterans Code*.

(c) "LGBT business enterprise" means a business enterprise that is at least 51-percent owned by a lesbian, gay, bisexual, or transgender person or persons; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more lesbian, gay, bisexual, or transgender persons; and whose management and daily business operations are controlled by one or more of those individuals.

(d) "Minority business enterprise" means a business enterprise that is at least 51-percent owned by a minority group or groups; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority groups, and whose management and daily business operations are controlled by one or more of those individuals. The contracting utility shall presume that minority includes African Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans.

(e) To "operate" means to be actively involved in the day-to-day management. It is not enough to merely be an officer or director.

(f) "Renewable energy project" means a project for the development and operation of an eligible renewable energy resource meeting the requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1).

(g) "Women business enterprise" means a business enterprise that is at least 51-percent owned by a woman or women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more of those individuals.

SEC. 272.

Section 21252 of the Public Utilities Code is amended to read:

21252.

(a)

(1) The department, its members, the director, officers and employees of the department, and every state and peace officer charged with the enforcement of state and subordinate laws or ordinances, may enforce and assist in the enforcement of this part, the rules and orders issued under this part, and all other laws of this state relating to aeronautics. In the enforcement of these rules, orders, and laws, the director, and any officers and employees as the director may designate, shall have the authority, as public officers, to arrest without a warrant, any person who, in his presence, has violated, or as to whom there is probable cause to believe has violated, any of the rules, orders, or laws.

(2) In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting officer may, instead of taking that person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with *Section 853.5) of Title 3 of Part 2 of the Penal Code*. The provisions of that chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(b) There shall not be civil liability on the part of, and a cause of action shall not arise against, any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest that is lawful or for which the arresting officer, at the time of the arrest, had reasonable cause to believe was lawful. The officer shall not be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) The director, and any officers and employees as the director may designate, may serve all processes and notices throughout the state.

SEC. 273.

Section 130350.7 of the Public Utilities Code is amended to read:

130350.7.

(a) The Los Angeles County Metropolitan Transportation Authority (MTA), in addition to any other tax it is authorized to impose or has imposed, may impose a transactions and use tax, for a period to be determined by the MTA, that is applicable in the incorporated and unincorporated areas of Los Angeles County. The rate of tax authorized by this section, when combined with the rate of tax authorized by voter approval of Measure R pursuant to Section 130350.5 during any period when that tax is in effect, and upon the expiration of that tax, shall not exceed 1 percent.

(b) The ordinance imposing the tax shall contain all of the following:

(1) An expenditure plan that lists the transportation projects and programs to be funded from net revenues from the tax. The expenditure plan shall appear in the ordinance as an exhibit. The expenditure plan shall include all of the following:

(A) The most recent cost estimates for each project and program identified in the expenditure plan.

(B) The identification of the accelerated cost, if applicable, for each project and program in the expenditure plan.

(C) The approximate schedule during which the MTA anticipates funds will be available for each project and program.

(D) The expected completion dates for each project and program within a three-year range.

(2) Provisions conforming to the Transactions and Use Tax Law (Part 1.6 (commencing with *Section 7251) of Division 2 of the Revenue and Taxation Code*), except as otherwise provided in subdivision (f).

(3) A provision limiting the MTA's costs of administering the ordinance and the net revenues from the tax to 1.5 percent of the total tax revenues.

(4) A requirement that the net revenues from the tax, defined to mean the total tax revenues less any refunds, costs of administration by the State Board of Equalization, and the MTA's administration costs, shall be used by the MTA to fund transportation projects and programs identified in the expenditure plan.

(5) The rate of the tax.

(c) The MTA shall do both of the following:

(1) Develop a transparent process to determine the most recent costs estimates for each project and program identified in the expenditure plan.

(2) At least 30 days before submitting the ordinance described in subdivision (b) to the voters, post the expenditure plan on its Internet Web site in a prominent manner.

(d) The ordinance shall be adopted by the MTA board, which shall also adopt a resolution that submits the ordinance to the voters.

(e) The ordinance shall become operative pursuant to Section 130352 if approved by two-thirds of the voters voting on the measure, pursuant to subdivision (d) of Section 2 of Article XIII C of the California Constitution.

(f)

(1) If the voters approve the ordinance authorized by this section, the expenditure plan included as an exhibit to the ordinance pursuant to paragraph (1) of subdivision (b) shall also be included in the revised and updated Long Range Transportation Plan within one year of the date the ordinance takes effect. The revised and updated Long Range Transportation Plan shall also include capital projects and capital programs that are adopted by each subregion that are submitted to the MTA for inclusion in the revised and updated Long Range Transportation Plan, if the cost and schedule details are provided by the subregions, in a manner consistent with the requirements of the plan. Inclusion of a capital project or a capital program in the Long Range Transportation Plan is not a commitment or guarantee that the project or program shall receive any future funding.

(2) For purposes of this subdivision, "subregion" shall have the same meaning as defined in the Long Range Transportation Plan.

(g) The MTA may incur bonded indebtedness payable from the net revenues of the tax pursuant to the bond issuance provisions of Chapter 5 (commencing with Section 130500) and any successor act.

(h) The tax authorized by this section shall be imposed pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with *Section 7251) of Division 2 of the Revenue and Taxation Code*), notwithstanding the combined rate limitation in *Section 7251.1 of the Revenue and Taxation Code*.

SEC. 274.

Section 408 of the Revenue and Taxation Code is amended to read:

408.

(a) Except as otherwise provided in subdivisions (b), (c), (d), (e), and (g), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b)

The assessor may provide any appraisal data in his or her possession to the assessor of any county.

The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees, or representatives when conducting an investigation of the assessor's office pursuant to *Section 25303 of the Government Code*, the county recorder when conducting an investigation to determine whether a documentary transfer tax is imposed, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Division of Financial Institutions, the Department of Transportation, the Department of General Services, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Child Support Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Business Oversight, the Department of Transportation, the Department of General Services, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor may not display any document relating to the business affairs or property of another.

(e)

(1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee, or his or her designated representative, may not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f)

(1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee, or his or her designated representative, requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

(g) Upon the written request of the tax collector, the assessor shall provide to the tax collector information for the preparation and enforcement of Part 6 (commencing with Section 3351). The tax collector shall certify to the assessor that he or she needs the contact information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351). The assessor shall provide the information, which may not include social security numbers. Any information provided to the tax collector pursuant to this subdivision shall not become a public record and shall not be open to public inspection. The tax collector shall reimburse the assessor for the actual and reasonable costs incurred by the assessor for providing the information to administer this subdivision. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent taxes and include the costs incurred subject to Sections 4112 and 4672.2. The tax collector or his or her designated employee shall, under penalty of perjury, certify to the assessor that he or she needs the information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351), and that the information provided pursuant to this subdivision that is not public record and that is not open to public inspection shall not become public record and shall not be open to public inspection.

SEC. 275.

Section 423.3 of the Revenue and Taxation Code is amended to read:

423.3.

Any city or county may allow land subject to an enforceable restriction under the Williamson Act or a migratory waterfowl habitat contract to be assessed in accordance with one or more of the following:

(a) Land specified in paragraph (1) of subdivision (a) of *Section 16142 of the Government Code* shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 70 percent.

(b)

Prime commercial rangeland shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 80 percent.

For purposes of this subdivision, “prime commercial rangeland” means rangeland that meets all of the following physical-chemical parameters:

(1) Soil depth of 12 inches or more.

(2) Soil texture of fine sandy loam to clay.

(3) Soil permeability of rapid to slow.

(4) Soil with at least 2.5 inches of available water holding capacity in profile.

(5) A slope of less than 30 percent.

(6) A climate with 80 or more frost-free days per year.

(7) Ten inches or more average annual precipitation.

(8)

When managed at potential, the land generally requires less than 17 acres to support one animal unit per year.

Property owners of land specified in this subdivision shall demonstrate that their land falls within the above definition when requested by the city or county.

(c) Land specified in paragraph (2) of subdivision (a) of *Section 16142 of the Government Code* shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 90 percent.

(d) Waterfowl habitat shall be assessed at the value determined as provided in Section 423.7 but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 90 percent.

SEC. 276.

*Section 12206 of the Revenue and Taxation Code*is amended to read:

12206.

(a)

(1) There shall be allowed as a credit against the “tax” (as described by Section 12201) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c),

computed in accordance with *Section 42 of the Internal Revenue Code*, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b)

(1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) Except for projects to provide farmworker housing, as defined in subdivision (h) of *Section 50199.7 of the Health and Safety Code*, that are allocated credits solely under the set-aside described in subdivision (c) of *Section 50199.20 of the Health and Safety Code*, the low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under *Section 42 of the Internal Revenue Code*.

(ii) It shall qualify for a credit under *Section 42(h)(4)(B) of the Internal Revenue Code*.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to *Section 42 of the Internal Revenue Code*. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C)

(i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2016, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of *Section 704(b) of the Internal Revenue Code*.

(ii) This subparagraph does not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of *Section 50199.20 of the Health and Safety Code* unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(iii) This subparagraph shall cease to be operative with respect to any project that receives a preliminary reservation of a credit on or after January 1, 2016.

(2)

(A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to *Section 42 of the Internal Revenue Code* apply to this section.

(F)

(i) Except as described in clause (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in *Section 42(d)(5)(B) of the Internal Revenue Code*, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under *Section 42 of the Internal Revenue Code* is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of its occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to *Section 42(d)(5)(B) of the Internal Revenue Code*, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(G)

(i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to *Section 42(d)(5)(B) of the Internal Revenue Code* in amounts up to 30 percent of the eligible basis of a building if the credits allowed under *Section 42 of the Internal Revenue Code* are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) *Section 42(b) of the Internal Revenue Code*shall be modified as follows:

(1) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of *Section 42(b)(2) of the Internal Revenue Code*, in lieu of the percentage prescribed in *Section 42(b)(1)(B) of the Internal Revenue Code*.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in *Section 42 of the Internal Revenue Code*.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of *Section 42(e) of the Internal Revenue Code* regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) do not apply.

(d) The term "qualified low-income housing project" as defined in *Section 42(c)(2) of the Internal Revenue Code* is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall

be allocated to the low-income units using the “floor space fraction,” as defined in *Section 42 of the Internal Revenue Code*.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return applies in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an “S” corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of *Section 42(g)(1) of the Internal Revenue Code*.

(e) The provisions of *Section 42(f) of the Internal Revenue Code* shall be modified as follows:

(1) The term “credit period” as defined in *Section 42(f)(1) of the Internal Revenue Code* is modified by substituting “four taxable years” for “10 taxable years.”

(2) The special rule for the first taxable year of the credit period under *Section 42(f)(2) of the Internal Revenue Code* does not apply to the tax credit under this section.

(3)

*Section 42(f)(3) of the Internal Revenue Code*is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of *Section 42(h) of the Internal Revenue Code* shall be modified as follows:

(1)

*Section 42(h)(2) of the Internal Revenue Code*does not apply, and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of *Section 42(h) of the Internal Revenue Code* do not apply.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($ 70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($ 70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars ($ 500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of *Section 50199.7 of the Health and Safety Code*.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of *Section 50199.7 of the Health and Safety Code*.

(h) The term “compliance period” as defined in *Section 42(i)(1) of the Internal Revenue Code* is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i)

(1) *Section 42(j) of the Internal Revenue Code*does not apply and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of *Section 50199.14 of the Health and Safety Code*, shall apply, providing the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of *Section 42 of the Internal Revenue Code* as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with *Section 42(g) of the Internal Revenue Code*.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor’s obligations under the regulatory agreement, assign the housing sponsor’s interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j)

(1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in *Section 42(m)(1) of the Internal Revenue Code*. In adopting this plan, the committee shall comply with the provisions of *Sections 42(m)(1)(B)* and *42(m)(1)(C) of the Internal Revenue Code*.

(3) Notwithstanding *Section 42(m) of the Internal Revenue Code*, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units is comprised of low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (3) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k)

*Section 42(l) of the Internal Revenue Code*shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(l) In the case where the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of *Public Law 101-508*, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of *Public Law 101-508*, relating to election to accelerate credit, do not apply.

(o) This section shall remain in effect for as long as *Section 42 of the Internal Revenue Code*, relating to low-income housing credits, remains in effect.

SEC. 277.

*Section 17052.6 of the Revenue and Taxation Code*is amended to read:

17052.6.

(a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount determined in accordance with *Section 21 of the Internal Revenue Code*, except that the amount of the credit shall be a percentage, as provided in subdivision (b) of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

(1)

For taxable years beginning before January 1, 2003:

If the adjusted gross income is:The percentage ofcredit is:

$ 40,000 or less63%

Over $ 40,000 but not over $ 70,00053%

Over $ 70,000 but not over $ 100,00042%

Over $ 100,0000%

(2)

For taxable years beginning on or after January 1, 2003:

If the adjusted gross income is:The percentage ofcredit is:

$ 40,000 or less50%

Over $ 40,000 but not over $ 70,00043%

Over $ 70,000 but not over $ 100,00034%

Over $ 100,0000%

(c) For purposes of this section, “adjusted gross income” means adjusted gross income as computed for purposes of paragraph (2) of subdivision (h) of Section 17024.5.

(d) The credit authorized by this section shall be limited, as follows:

(1) Employment-related expenses, within the meaning of *Section 21 of the Internal Revenue Code*, shall be limited to expenses for household services and care provided in this state.

(2) Earned income, within the meaning of *Section 21(d) of the Internal Revenue Code*, shall be limited to earned income subject to tax under this part. For purposes of this paragraph, compensation received by a member of the armed forces for active services as a member of the armed forces, other than pensions or retired pay, shall be considered earned income subject to tax under this part, whether or not the member is domiciled in this state.

(e) For purposes of this section, *Section 21(b)(1) of the Internal Revenue Code*, relating to a qualifying individual, is modified to additionally provide that a child, as defined in *Section 152(f)(1) of the Internal Revenue Code*, shall be treated, for purposes of *Section 152 of the Internal Revenue Code*, as applicable for purposes of this section, as receiving over one-half of his or her support during the calendar year from the parent having custody for a greater portion of the calendar year, that parent shall be treated as a “custodial parent,” within the meaning of *Section 152(e) of the Internal Revenue Code*, as applicable for purposes of this section, and the child shall be treated as a qualifying individual under *Section 21(b)(1) of the Internal Revenue Code*, as applicable for purposes of this section, if both of the following apply:

(1) The child receives over one-half of his or her support during the calendar year from his or her parents who never married each other and who lived apart at all times during the last six months of the calendar year.

(2) The child is in the custody of one or both of his or her parents for more than one-half of the calendar year.

(f) The amendments to this section made by Section 1.5 of Chapter 824 of the Statutes of 2002 apply only to taxable years beginning on or after January 1, 2002.

(g) The amendments made to this section by Chapter 14 of the Statutes of 2011 apply to taxable years beginning on or after January 1, 2011.

SEC. 278.

Section 17255 of the Revenue and Taxation Code is amended to read:

17255.

(a) *Section 179(b)(1) of the Internal Revenue Code*, relating to dollar limitation, shall not apply and in lieu thereof, the aggregate cost which may be taken into account under *Section 179(a) of the Internal Revenue Code* for any taxable year shall not exceed twenty-five thousand dollars ($ 25,000).

(b) *Section 179(b)(2) of the Internal Revenue Code*, relating to reduction in limitation, does not apply and in lieu thereof, the limitation under subdivision (a) for any taxable year shall be reduced, but not to below zero, by the amount by which the cost of Section 179 property, as defined in *Section 179(d)(1) of the Internal Revenue Code*, except as otherwise provided, placed in service during the taxable year exceeds two hundred thousand dollars ($ 200,000).

(c) *Section 179 of the Internal Revenue Code* is modified to provide that the "aggregate amount disallowed" referred to in *Section 179(b)(3)(B) of the Internal Revenue Code* shall be computed under this part as it read on the date the property generating the amount disallowed was placed in service.

(d) The last sentence in *Section 179(c)(2) of the Internal Revenue Code*, relating to election irrevocable, does not apply.

(e) *Section 179(d)(1)(A)(ii) of the Internal Revenue Code* does not apply.

(f) *Section 179(e) of the Internal Revenue Code*, relating to special rules for qualified disaster assistance property, does not apply.

SEC. 279.

Section 18035.6 of the Revenue and Taxation Code is repealed.

SEC. 280.

Section 18036.6 of the Revenue and Taxation Code is repealed.

SEC. 281.

Section 18805 of the Revenue and Taxation Code is amended to read:

18805.

(a) A taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Peace Officer Memorial Foundation Fund, which is established by Section 18806. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after

reimbursement of the direct actual costs of the Franchise Tax Board for the collection and the administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Peace Officer Memorial Foundation Fund" to allow for the designation permitted. The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($ 1) or more and that the contribution shall be used to build and maintain the California Peace Officers' Memorial in Sacramento, California, and for activities performed by the California Peace Officers Memorial Foundation, Inc. in support of families of slain peace officers.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 282.

Section 18807 of the Revenue and Taxation Code is amended to read:

18807. All money transferred to the California Peace Officer Memorial Foundation Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the Department of the California Highway Patrol for allocation to the California Peace Officers' Memorial Commission for building and maintaining the California Peace Officers' Memorial in Sacramento, California, and for activities performed by the California Peace Officers Memorial Foundation, Inc. in support of families of slain peace officers.

(c) All money transferred to the California Peace Officer Memorial Foundation Fund prior to the enactment of the act adding this subdivision is hereby appropriated for allocation as described in subdivisions (a) and (b).

SEC. 283.

Section 18808 of the Revenue and Taxation Code is amended to read:

18808.

(a) This article shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2021, deletes that date.

(b) If the repeal date specified in subdivision (a) has been deleted, all of the following apply:

(1) By September 1 of the calendar year beginning after the effective date of the act deleting the repeal date and by September 1 of each subsequent calendar year that the California Peace Officer Memorial Foundation Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the California Peace Officers' Memorial Commission of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the

Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars ($ 250,000) for the first calendar year beginning after the effective date of the act that deleted the repeal date specified in subdivision (a), or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2005, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 284.

Section 19136 of the Revenue and Taxation Code is amended to read:

19136.

(a) *Section 6654 of the Internal Revenue Code*, relating to failure by an individual to pay estimated income tax, applies, except as otherwise provided.

(b) *Section 6654(a)(1) of the Internal Revenue Code* is modified to refer to the rate determined under Section 19521 in lieu of *Section 6621 of the Internal Revenue Code*.

(c)

(1) *Section 6654(e)(1) of the Internal Revenue Code*, relating to exceptions where the tax is a small amount, does not apply.

(2) An addition to tax shall not be imposed under this section if the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than five hundred dollars ($ 500), except in the case of a separate return filed by a married person the amount shall be less than two hundred fifty dollars ($ 250).

(d) *Section 6654(f) of the Internal Revenue Code* does not apply and for purposes of this section the term “tax” means the tax imposed under Section 17041 or 17048 and the tax imposed under

Section 17062 less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.

(e)

(1) The credit for tax withheld on wages, as specified in *Section 6654(g) of the Internal Revenue Code*, is the credit allowed under subdivision (a) of Section 19002.

(2)

(A) *Section 6654(g)(1) of the Internal Revenue Code*is modified by substituting the phrase "the applicable percentage" for the phrase "an equal part."

(B) For purposes of this paragraph, "applicable percentage" means the percentage amount prescribed under *Section 6654(d)(1)(A) of the Internal Revenue Code*, as modified by subdivision (a) of Section 19136.1.

(f) This section applies to a nonresident individual.

(g)

(1) An addition to tax shall not be imposed under this section to the extent that the underpayment was created or increased by either of the following:

(A) Any law that is chaptered during and operative for the taxable year of the underpayment.

(B) If, for a taxable year prior to its repeal, the adjustment factor for the credit authorized by Section 17052 for the taxable year was less than the adjustment factor for that credit for the preceding taxable year.

(2)

(A) Notwithstanding Section 18415, subparagraph (A) of paragraph (1) applies to penalties imposed under this section on or after January 1, 2005.

(B) Notwithstanding Section 18415, subparagraph (B) of paragraph (1) applies to penalties imposed under this section on or after January 1, 2016.

(h) The amendments made to this section by Section 5 of Chapter 305 of the Statutes of 2008 apply to taxable years beginning on or after January 1, 2009.

(i) The amendments made to this section by Section 3 of Chapter 15 of the Fourth Extraordinary Session of the Statutes of 2009 apply to amounts withheld on wages beginning on or after January 1, 2009.

SEC. 285.

*Section 19161 of the Revenue and Taxation Code*is amended to read:

19161.

(a) An addition to tax shall not be made under Section 19132, 19136, or 19142 for failure to make timely payment of tax with respect to a period during which a case is pending under Title 11 of the United States Code in either of the following situations:

(1) If that tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses.

(2) If:

(A) That tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee, and

(B)

(i) The petition was filed before the due date prescribed by law (including extensions) for filing a return of that tax, or

(ii) The date for making the addition to the tax occurs on or after the day on which the petition was filed.

(b) Subdivision (a) does not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the State of California.

SEC. 286.

Section 19255 of the Revenue and Taxation Code is amended to read:

19255.

(a) Except as otherwise provided in subdivisions (b) and (e), after 20 years have lapsed from the date the latest tax liability for a taxable year or the date any other liability that is not associated with a taxable year becomes "due and payable" within the meaning of Section 19221, the Franchise Tax Board may not collect that amount and the taxpayer's liability to the state for that liability is abated by reason of lapse of time. Any actions taken by the Franchise Tax Board to collect an uncollectible liability shall be released, withdrawn, or otherwise terminated by the Franchise Tax Board, and no subsequent administrative or civil action shall be taken or brought to collect all or part of that uncollectible amount. Any amounts received in contravention of this section shall be considered an overpayment that may be credited and refunded in accordance with Article 1 (commencing with Section 19301) of Chapter 6.

(b) If a timely civil action filed pursuant to Article 2 of Chapter 6 of this part is commenced, or a claim is filed in a probate action, the period for which the liability is collectable shall be extended and shall not expire until that liability, probate claim, or judgment against the taxpayer arising from that liability is satisfied or becomes unenforceable under the laws applicable to the enforcement of civil judgments.

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

(1) "Tax liability" means a liability imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and includes any additions to tax, interest, penalties, fees and any other amounts relating to the imposed liability.

(2) If more than one liability is "due and payable" for a particular taxable year, with the exception of a liability resulting from a penalty imposed under Section 19777.5, the "due and payable" date that is later in time shall be the date upon which the 20-year limitation of subdivision (a) commences.

(d) This section does not apply to amounts subject to collection by the Franchise Tax Board pursuant to Article 5.5 or 7 of this chapter, or any other amount that is not a tax imposed under Part 10 or Part 11, but which the Franchise Tax Board is collecting as though it were a final personal income tax delinquency.

(e)

(1) The expiration of the period of limitation on collection under this section shall be suspended for the following periods:

(A) The period during which the Franchise Tax Board is prohibited by reason of a bankruptcy case from collecting, plus six months thereafter.

(B) The period described under subdivision (d) of Section 19008 relating to installment payment agreements.

(C) The period during which collection is postponed by operation of law under Section 18571, related to postponement by reason of service in a combat zone, or under Section 18572, related to postponement by reason of presidentially declared disaster or terroristic or military action.

(D) During any other period during which collection of a tax is suspended, postponed, or extended by operation of law.

(2) A suspension of the period of limitation under this subdivision applies with respect to both parties of any liability that is joint and several.

(f) This section shall be applied on and after July 1, 2006, to any liability "due and payable" before, on, or after that date.

SEC. 287.

Section 19533 of the Revenue and Taxation Code is amended to read:

19533.

(a) In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(1) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and amounts authorized to be collected under Section 19722.

(2) Payment of delinquencies collected under Section 10878.

(3) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(4) Payment of any delinquencies referred for collection under Article 7 (commencing with Section 19291) of Chapter 5.

(b) Notwithstanding the payment priority established by this section, voluntary payments designated by the taxpayer as payment for a personal income tax liability or as a payment on amounts authorized to be collected under Section 19722, shall not be applied pursuant to this priority, but shall instead be applied as designated.

SEC. 288.

Section 19772 of the Revenue and Taxation Code is amended to read:

19772.

(a) *Section 6707A of the Internal Revenue Code*, relating to penalty for failure to include reportable transaction information with a return, shall apply, except as otherwise provided.

(b)

(1) *Section 6707A(b)(1) of the Internal Revenue Code*, relating to amount of penalty, is modified by substituting the phrase "or which would have resulted from such transaction if such transaction were respected for state tax purposes" for the phrase "or which would have resulted from such transaction if such transaction were respected for Federal tax purposes."

(2) The penalty amounts in *Section 6707A(b)(2)(A) of the Internal Revenue Code* are modified by substituting "$ 30,000 ($ 15,000" for "$ 200,000 ($ 100,000."

(3) The penalty amounts in *Section 6707A(b)(2)(B) of the Internal Revenue Code* are modified by substituting "$ 15,000 ($ 5,000" for "$ 50,000 ($ 10,000."

(4) The penalty amounts in *Section 6707A(b)(3) of the Internal Revenue Code*, relating to minimum penalty, are modified by substituting "$ 2,500 ($ 1,250" for "$ 10,000 ($ 5,000."

(c)

(1) *Section 6707A(c)(1) of the Internal Revenue Code*, relating to reportable transaction, is modified to include reportable transactions within the meaning of paragraph (3) of subdivision (a) of Section 18407.

(2) *Section 6707A(c)(2) of the Internal Revenue Code*, relating to listed transaction, is modified to include listed transactions within the meaning of paragraph (4) of subdivision (a) of Section 18407.

(d) The penalty under this section only applies to taxpayers with taxable income greater than two hundred thousand dollars ($ 200,000).

(e) *Section 6707A(e) of the Internal Revenue Code*, relating to a penalty reported to the Securities and Exchange Commission, does not apply.

(f) *Section 6707A(d) of the Internal Revenue Code*, relating to authority to rescind penalty, does not apply, and in lieu thereof, the following apply:

(1) The Chief Counsel of the Franchise Tax Board may rescind all or any portion of any penalty imposed by this section with respect to any violation if all of the following apply:

(A) The violation is with respect to a reportable transaction other than a listed transaction.

(B) The person on whom the penalty is imposed has a history of complying with the requirements of this part and Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

(C) It is shown that the violation is due to an unintentional mistake of fact.

(D) Imposing the penalty would be against equity and good conscience.

(E) Rescinding the penalty would promote compliance with the requirements of this part and Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) and effective tax administration.

(2) The exercise of authority under paragraph (1) shall be at the sole discretion of the Chief Counsel of the Franchise Tax Board and may not be delegated.

(3) Notwithstanding any other law or rule of law, any determination under this subdivision may not be reviewed in any administrative or judicial proceeding.

(g) Article 3 (commencing with Section 19031) of Chapter 4, relating to deficiency assessments, does not apply with respect to the assessment or collection of any penalty imposed under this section.

(h) The penalty imposed by this section is in addition to any penalty imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(i) The amendments made to this section by Section 25 of Chapter 359 of the Statutes of 2015 apply to penalties assessed on or after January 1, 2016.

SEC. 289.

*Section 20640.3 of the Revenue and Taxation Code*is amended to read:

20640.3.

A claimant is an individual who:

(a) Holds a right to a possessory interest pursuant to a validly recorded instrument conveying such possessory interest for a term of years no less than 45 years beyond the last day of the calendar year ending immediately prior to the fiscal year for which taxes are initially postponed.

(b) Occupies as a principal place of residence the residential dwelling affixed to such possessory interest real property on the last day of the year designated in subdivision (d) of Section 20503.

(c) Is either (1) 62 years of age or older on or before December 31 of the fiscal year for which postponement is claimed or (2) blind or disabled, as defined in *Section 12050 of the Welfare and Institutions Code*, at the time of application or on December 10 of the fiscal year for which the postponement is claimed, whichever is earlier.

SEC. 290.

Section 21021 of the Revenue and Taxation Code is amended to read:

21021.

(a) If any officer or employee of the board recklessly disregards board published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon a finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, as defined for purposes of Section 19717.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceedings brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($ 10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

SEC. 291.

Section 23156 of the Revenue and Taxation Code is amended to read:

23156.

(a) The Franchise Tax Board shall abate, upon written request by a qualified nonprofit corporation, unpaid qualified taxes, interest, and penalties for the taxable years in which the qualified nonprofit corporation certifies, under penalty of perjury, that it was not doing business, within the meaning of subdivision (a) of Section 23101.

(b) For purposes of this section:

(1) "Qualified nonprofit corporation" means a nonprofit corporation identified in *Section 5059, 5060, or 5061 of the Corporations Code* or a foreign nonprofit corporation, as defined in *Section 5053 of the Corporations Code* that has qualified to transact intrastate business in this state and that satisfies any of the following conditions:

(A) Was operating and previously obtained tax-exempt status with the Franchise Tax Board, but had its tax-exempt status revoked under subdivision (a) of Section 23777.

(B) Was operating and previously obtained tax-exempt status with the Internal Revenue Service, but had its tax-exempt status revoked under *Section 6033(j) of the Internal Revenue Code*.

(C) Was never doing business, within the meaning of subdivision (a) of Section 23101, in this state at any time after the time of its incorporation in this state.

(2) "Qualified taxes, interest, and penalties" means tax imposed under Section 23153 and associated interest and penalties, and any penalties imposed under Section 19141. "Qualified taxes, interest, and penalties" does not include tax imposed under Section 23501 or 23731, or associated interest or penalties.

(c) The qualified corporation must establish that it has ceased all business operations at the time of filing the request for abatement under this section.

(d)

(1) The abatement of unpaid qualified tax, interest, and penalties is conditioned on the dissolution of the qualified corporation within 12 months from the date of filing the request for abatement under this section.

(2) If the qualified corporation is not dissolved within 12 months from the date of filing the request for abatement or restarts business operations at any time after requesting abatement under this section, the abatement of qualified tax, interest, and penalties under this section shall be canceled and the qualified taxes, interest, and penalties subject to that abatement shall be treated as if the abatement never occurred.

(e) The Franchise Tax Board shall prescribe any rules and regulations that may be necessary or appropriate to implement this section. Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code* shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

SEC. 292.

*Section 23610.5 of the Revenue and Taxation Code*is amended to read:

23610.5.

(a)

(1) There shall be allowed as a credit against the "tax" (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with *Section 42 of the Internal Revenue Code of 1986*, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b)

(1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of *Section 50199.7 of the Health and Safety Code*, that are allocated credits solely under the set-aside described in subdivision (c) of *Section 50199.20 of the Health and Safety Code*, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under *Section 42 of the Internal Revenue Code*.

(ii) It qualifies for a credit under *Section 42(h)(4)(B) of the Internal Revenue Code*.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to *Section 42 of the Internal Revenue Code*. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C)

(i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2016, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of *Section 704(b) of the Internal Revenue Code*.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph does not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of *Section 50199.20 of the Health and Safety Code* unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(iv) This subparagraph shall cease to be operative with respect to any project that receives a preliminary reservation of a credit on or after January 1, 2016.

(2)

(A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to *Section 42 of the Internal Revenue Code* apply to this section.

(E)

(i) Except as described in clause (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in *Section 42(d)(5)(B) of the Internal Revenue Code*, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under *Section 42 of the Internal Revenue Code* is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of its occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, even if the taxpayer receives federal credits pursuant to *Section 42(d)(5)(B) of the Internal Revenue Code*, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(F)

(i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to *Section 42(d)(5)(B) of the Internal Revenue Code* in amounts up to 30 percent of the eligible basis of a building if the credits allowed under *Section 42 of the Internal Revenue Code* are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) *Section 42(b) of the Internal Revenue Code*shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term “applicable percentage” means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of *Section 42(b)(2) of the Internal Revenue Code*, in lieu of the percentage prescribed in *Section 42(b)(1)(B) of the Internal Revenue Code*.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is “at risk of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term “at risk of conversion,” with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in *Section 42 of the Internal Revenue Code*.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of *Section 42(e) of the Internal Revenue Code* regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) do not apply.

(d) The term “qualified low-income housing project” as defined in *Section 42(c)(2) of the Internal Revenue Code* is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the “floor space fraction,” as defined in *Section 42 of the Internal Revenue Code*.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return applies in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of *Section 42(g)(1) of the Internal Revenue Code*.

(e) The provisions of *Section 42(f) of the Internal Revenue Code* shall be modified as follows:

(1) The term "credit period" as defined in *Section 42(f)(1) of the Internal Revenue Code* is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under *Section 42(f)(2) of the Internal Revenue Code* shall not apply to the tax credit under this section.

(3)

*Section 42(f)(3) of the Internal Revenue Code*is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of *Section 42(h) of the Internal Revenue Code* shall be modified as follows:

(1)

*Section 42(h)(2) of the Internal Revenue Code*does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of *Section 42(h) of the Internal Revenue Code* do not apply.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars ($ 70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($ 70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the

housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars ($ 500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of *Section 50199.7 of the Health and Safety Code*.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of *Section 50199.7 of the Health and Safety Code*.

(h) The term “compliance period” as defined in *Section 42(i)(1) of the Internal Revenue Code* is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i)

*Section 42(j) of the Internal Revenue Code*does not apply and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and this agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of *Section 50199.14 of the Health and Safety Code* shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto, and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of *Section 42 of the Internal Revenue Code* as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with *Section 42(g) of the Internal Revenue Code*.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor’s obligations under the regulatory agreement, assign the housing sponsor’s interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to

any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j)

(1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in *Section 42(m)(1) of the Internal Revenue Code*. In adopting this plan, the committee shall comply with the provisions of *Sections 42(m)(1)(B)* and *42(m)(1)(C) of the Internal Revenue Code*.

(3) Notwithstanding *Section 42(m) of the Internal Revenue Code*, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate that there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in *Section 50199.21 of the Health and Safety Code*. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k)

*Section 42(l) of the Internal Revenue Code*shall be modified as follows:

The term "secretary" shall be replaced by the term "California Franchise Tax Board."

(l) In the case in which the state credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of *Public Law 101-508*, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of *Public Law 101-508*, relating to election to accelerate credit, do not apply.

(q)

(1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, “affiliated corporation” has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that “100 percent” is substituted for “more than 50 percent” wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and “voting common stock” is substituted for “voting stock” wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

(s) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

(t) This section shall remain in effect on and after December 1, 1990, for as long as *Section 42 of the Internal Revenue Code*, relating to low-income housing credit, remains in effect.

SEC. 293.

Section 24355.5 of the Revenue and Taxation Code, as amended and renumbered by Section 493 of Chapter 303 of the Statutes of 2015, is amended and renumbered to read:

24355.3.

For purposes of computing the depreciation deduction pursuant to Section 24349, the useful life of any Alaska natural gas pipeline, as defined in *Section 168(i)(16) of the Internal Revenue Code*, shall be seven years.

SEC. 294.

*Section 24356 of the Revenue and Taxation Code*is amended to read:

24356.

(a)

(1) In the case of Section 24356 property, the term “reasonable allowance” as used in subdivision (a) of Section 24349, may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under Sections 24349 through 24354 to the taxpayer with respect to such property, of 20 percent of the cost of that property.

(2) If in any one taxable year the cost of Section 24349 property with respect to which the taxpayer may elect an allowance under paragraph (1) for that taxable year exceeds ten

thousand dollars ($ 10,000), then paragraph (1) applies with respect to those items selected by the taxpayer, but only to the extent of an aggregate cost of ten thousand dollars ($ 10,000).

(b)

(1) In lieu of subdivision (a), *Section 179 of the Internal Revenue Code*, relating to election to expense certain depreciable business assets, applies, except as otherwise provided.

(2) *Section 179(b)(1) of the Internal Revenue Code*, relating to dollar limitation, does not apply and in lieu thereof, the aggregate cost that may be taken into account under *Section 179(a) of the Internal Revenue Code*, for any taxable year, shall not exceed twenty-five thousand dollars ($ 25,000).

(3) *Section 179(b)(2) of the Internal Revenue Code*, relating to reduction in limitation, does not apply and in lieu thereof, the limitation under paragraph (2), for any taxable year, shall be reduced, but not below zero, by the amount by which the cost of Section 179 property, as defined in *Section 179(d)(1) of the Internal Revenue Code*, except as otherwise provided, that is placed in service during the taxable year, exceeds two hundred thousand dollars ($ 200,000).

(4) *Section 179 of the Internal Revenue Code*is modified to provide that the “aggregate amount disallowed” referred to in *Section 179(b)(3)(B) of the Internal Revenue Code* shall be computed under this part as that section read on the date the property generating the amount disallowed was placed in service.

(5) The last sentence in *Section 179(c)(2) of the Internal Revenue Code*, relating to election irrevocable, does not apply.

(6) *Section 179(d)(1)(A)(ii) of the Internal Revenue Code*, relating to computer software, does not apply.

(7) *Section 179(e) of the Internal Revenue Code*, relating to special rules for qualified disaster assistance property, does not apply.

(c)

(1) The election under this section for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(2) Any election made under this section shall not be revoked except with the consent of the Franchise Tax Board.

(d)

(1) For purposes of this section, the term “Section 24356 property”

means tangible personal property--

(A) Of a character subject to the allowance for depreciation under Sections 24349 through 24354,

(B) Acquired by purchase after December 31, 1958, for use in a trade or business, and

(C) With a useful life (determined at the time of such acquisition) of six years or more.

(2) For purposes of paragraph (1), the term “purchase” means any

acquisition of property, but only if--

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 24427 (but, in applying *Section 267 of the Internal Revenue Code*, relating to losses, expenses, and interest with respect

to transactions between related taxpayers, for purposes of this section, *Section 267(c)(4) of the Internal Revenue Code* shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants);

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) For purposes of subdivision (a) and subdivision (b) of this section:

(A) All members of an affiliated group shall be treated as one taxpayer, and

(B) The Franchise Tax Board shall apportion the dollar limitation contained in subdivision (a) or subdivision (b) among the members of the affiliated group in the manner as it shall by regulations prescribe.

(5) For purposes of paragraphs (2) and (4), the term “affiliated group” has the meaning assigned to it by *Section 1504 of the Internal Revenue Code*, except that, for those purposes, the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in *Section 1504(a) of the Internal Revenue Code*.

(6) In applying Section 24353, the adjustment under paragraph (1) of subdivision (b) of Section 24916, resulting by reason of an election made under this section with respect to any Section 24356 property, shall be made before any other deduction allowed by subdivision (a) of Section 24349 is computed.

(e) The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

SEC. 295.

The heading of Part 13.5 (commencing with Section 31020) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 13.5.

Commercial Cannabis Distribution Reporting

SEC. 296.

Section 41030 of the Revenue and Taxation Code, as added by Section 6 of Chapter 885 of the Statutes of 2014, is repealed.

SEC. 297.

*Section 13003 of the Unemployment Insurance Code*is amended to read:

13003.

(a) Except if the context otherwise requires, the definitions set forth in this chapter, and in addition the definitions and provisions of the Personal Income Tax Law referred to and hereby incorporated by reference as set forth in the following provisions of the Revenue and Taxation Code, apply to and govern the construction of this division:

(1) “Corporation” as defined by Section 17009.

(2) “Fiduciary” as defined by Section 17006.

(3) “Fiscal year” as defined by Section 17011.

(4) “Foreign country” as defined by Section 17019.

(5) “Franchise Tax Board” as defined by Section 17003.

(6) “Husband” and “wife” as defined by Section 17021.

(7) “Individual” as defined by Section 17005.

(8) “Military or naval forces” as defined by Section 17022.

(9) “Nonresident” as defined by Section 17015.

(10) “Partnership” as defined by Section 17008.

(11) “Person” as defined by Section 17007.

(12) “Resident” as defined by Sections 17014 and 17016.

(13) “State” as defined by Section 17018.

(14) “Taxable year” as defined by Section 17010.

(15) “Taxpayer” as defined by Section 17004.

(16) “Trade or business” as defined by Section 17020.

(17) “United States” as defined by Section 17017.

(b) The provisions of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with *Section 18401) of Division 2 of the Revenue and Taxation Code*, relating to the following items, are hereby incorporated by reference and apply to and govern construction of this division:

(1) Trade or business expense (Article 6 (commencing with Section 17201) of Chapter 3 of Part 10).

(2) Deductions for retirement savings (Article 6 (commencing with Section 17201) of Chapter 3 of Part 10).

(3) Distributions of property by a corporation to a shareholder (Chapter 4 (commencing with Section 17321) of Part 10).

(4) Deferred compensation (Chapter 5 (commencing with Section 17501) of Part 10).

(5) Partners and partnerships (Chapter 10 (commencing with Section 17851) of Part 10).

(6) Gross income of nonresident taxpayers (Chapter 11 (commencing with Section 17951) of Part 10).

(7) Postponement of the time for certain acts by individuals in or in support of the armed forces (Article 3 (commencing with Section 18621) of Chapter 2 of Part 10.2).

(8) Disclosure of information (Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2). For this purpose “Franchise Tax Board” as used therein shall mean the Employment Development Department in respect to information obtained in the administration of this division.

SEC. 298.

*Section 14200 of the Unemployment Insurance Code*is amended to read:

14200.

(a) The local chief elected officials in a local workforce development area shall form, pursuant to guidelines established by the Governor and the board, a local workforce development board to plan and oversee the workforce investment system.

(b) The Governor shall periodically certify one local board for each local area in the state, following the requirements of the federal Workforce Innovation and Opportunity Act of 2014.

(c) The Governor shall establish, through the California Workforce Development Board, standards for certification of high-performance local workforce development boards. The California Workforce Development Board shall, in consultation with representatives from local workforce development boards, initiate a stakeholder process to determine the appropriate measurable metrics and standards for high-performance certification. These standards shall be implemented on or before January 1, 2013, and the first certification of high-performance boards shall occur on or before July 1, 2013. Certification and recertification of each high-performance local workforce development board shall occur thereafter midway through the implementation of the local and regional plans required by the Workforce Innovation and Opportunity Act. In order to meet the standards for certification, a high-performance local workforce development board shall do all of the following:

(1) Consistently meet or exceed negotiated performance goals for all of the measures in each of the three federal Workforce Innovation and Opportunity Act of 2014 customer groups, which consist of adults, dislocated workers, and youth.

(2) Consistently meet the statutory requirements of this division.

(3) Develop and implement local policies and a local strategic plan that meets all of the following requirements:

(A) Meets all local and regional planning requirements specified under the federal Workforce Innovation and Development Act of 2014.

(B) Is consistent with the California Workforce Development Board State Plan.

(C) Describes the actions that the board shall take to implement local policies in furtherance of its goals.

(D) Serves as a written account of intended future courses of action aimed at achieving the specific goals of the local and state board within a specific timeframe.

(E) Explains what needs to be done, by whom, and when each action is required to occur in order to meet those goals.

(4) Demonstrate that the local planning process involves key stakeholders, including the major employers and industry groups in the relevant regional economy and organized labor.

(5) Demonstrate that the local planning process takes into account the entire workforce training pipeline for the relevant regional economy, including partners in K-12 education, career technical education, the community college system, other postsecondary institutions, and other local workforce development areas operating in the relevant regional economy.

(6) Demonstrate that the local planning process and plan are data driven, and that policy decisions at the local level are evidence based. Each high-performance local workforce development board shall use labor market data to develop and implement the local plan, taking care to steer resources into programs and services that are relevant to the needs of each workforce development area’s relevant regional labor market and high-wage industry sectors. Local workforce development areas shall demonstrate an evidence-based approach to policymaking by establishing performance benchmarks and targets to measure progress toward local goals and objectives.

(7) Demonstrate investment in workforce initiatives, and, specifically, training programs that promote skills development and career ladders relevant to the needs of each workforce investment area's regional labor market and high-wage industry sectors.

(8) Establish a youth strategy aligned with the needs of each workforce investment area's regional labor market and high-wage industry sectors.

(9) Establish a business service plan that integrates local business involvement with workforce initiatives. This plan at a minimum shall include all of the following:

(A) Efforts to partner with businesses to identify the workforce training and educational barriers to attract jobs in the relevant regional economy, existing skill gaps reducing the competitiveness of local businesses in the relevant regional economies, and potential emerging industries that would likely contribute to job growth in the relevant regional economy if investments were made for training and educational programs.

(B) An electronic system for both businesses and job seekers to communicate about job opportunities.

(C) A subcommittee of the local workforce development board that further develops and makes recommendations for the business service plan for each local workforce development board in an effort to increase employer involvement in the activities of the local workforce development board. The subcommittee members should be comprised of business representatives on the local workforce development board who represent both the leading industries and employers in the relevant regional economy and potential emerging sectors that have significant potential to contribute to job growth in the relevant regional economy if investments were made for training and educational programs.

(d) The Governor and the Legislature, as part of the annual budget process, in consultation with the California Workforce Development Board, shall annually reserve a portion of the 15-percent discretionary fund made available pursuant to the federal Workforce Innovation and Opportunity Act of 2014 for the purpose of providing performance incentives to high-performance local workforce development boards. The remaining discretionary funds shall continue to be available for other discretionary purposes as provided for in the federal Workforce Innovation and Opportunity Act of 2014.

(e) Only a workforce development board that is certified as a high-performance local workforce development board by the California Workforce Development Board shall be eligible to receive any incentive money reserved for high-performance local workforce development boards, as described in subdivision (d). A board that is not certified as a high-performance local workforce development board shall not receive any portion of the money reserved for high-performance local workforce development boards, as described in subdivision (d).

(f) The California Workforce Development Board shall establish a policy for the allocation of incentive moneys to high-performance local workforce development boards.

(g) To the extent permitted by the Workforce Innovation and Opportunity Act of 2014, the California Workforce Development Board may consider the utilization of incentive grants, or direct assistance, or both, to local workforce development boards for the purposes of this section.

(h) There shall not be a requirement to set aside federal Workforce Innovation and Opportunity Act of 2014 funds for the purposes of subdivision (d), (e), (f), or (g) in years when the federal government significantly reduces the share of federal Workforce Innovation and Opportunity Act of 2014 funds appropriated to the state for statewide discretionary purposes below the federal statutory amount of 15 percent.

SEC. 299.

Section 2404.5 of the Vehicle Code is amended to read:

2404.5.

The department shall obtain a vehicle suitable for registration and commercial safety inspections at border crossings into Mexico.

SEC. 300.

Section 11102.6 of the Vehicle Code is amended to read:

11102.6.

(a) Notwithstanding Section 11102.5, a driving school operator who is first licensed to operate a driving school on or after July 1, 2016, and who offers no behind-the-wheel driver training, shall meet all of the following requirements:

(1) Within three attempts, pass an examination that the department requires on traffic laws, safe driving practices, operation of motor vehicles, teaching methods and techniques, driving school statutes and regulations, and office procedures and recordkeeping.

(2) Pay the department a fee for each examination taken, not to exceed the reasonable cost of administering the examination.

(3) Be 21 years of age or older.

(4) Have successfully completed an educational program of not less than 60 hours that is acceptable to the department. The program shall include a minimum of 40 hours of classroom instruction and 20 hours of behind-the-wheel instruction. The program shall include, but not be limited to, driving school operator responsibilities, current vehicle laws, and regulations in Article 4.6 of Chapter 1 of Division 1 of Title 13 of the California Code of Regulations. The instruction may be provided by generally accredited educational institutions, private vocational schools, and education programs and seminars offered by professional societies, organizations, trade associations, and other educational and technical programs that meet the requirements of this section.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and a fee for the examination not to exceed the reasonable cost of administering the examination shall be required.

SEC. 301.

Section 16377 of the Vehicle Code, as added by Section 39 of Chapter 451 of the Statutes of 2015, is amended to read:

16377. (a) For the purposes of this chapter, every judgment shall be deemed satisfied if any of the following apply:

(1) Fifteen thousand dollars ($ 15,000) has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to, or death of, one person as a result of any one accident.

(2) Subject to the limit of fifteen thousand dollars ($ 15,000) as to one person, the sum of thirty thousand dollars ($ 30,000) has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to, or death of, more than one person as a result of any one accident.

(3) Five thousand dollars ($ 5,000) has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, each of which is in excess of one thousand dollars ($ 1,000), and

which together total in excess of five thousand dollars ($ 5,000), for damage to property of others as a result of any one accident.

(4) The judgment debtor or a person designated by him or her has deposited with the department a sum equal to the amount of the unsatisfied judgment for which the suspension action was taken and presents proof, satisfactory to the department, of inability to locate the judgment creditor.

(b) This section shall become operative on January 1, 2017.

SEC. 302.

Section 21294 of the Vehicle Code is amended to read:

21294.

(a) An electrically motorized board shall only operate upon a highway designated with a speed limit of 35 miles per hour or less, unless the electrically motorized board is operated entirely within a designated Class II or Class IV bikeway.

(b) A person shall not operate an electrically motorized board upon a highway, bikeway, or any other public bicycle path, sidewalk, or trail, at a speed in excess of 15 miles per hour.

(c) Notwithstanding subdivision (b), a person shall not operate an electrically motorized board at a speed greater than is reasonable or prudent having due regard for weather, visibility, pedestrian and vehicular traffic, and the surface and width of the highway, bikeway, public bicycle path, sidewalk, or trail, and in no event at a speed that endangers the safety of any person or property.

SEC. 303.

Section 22507.1 of the Vehicle Code is amended to read:

22507.1.

(a) A local authority may, by ordinance or resolution, designate certain streets or portions of streets for the exclusive or nonexclusive parking privilege of motor vehicles participating in a car share vehicle program or ridesharing program. The ordinance or resolution shall establish the criteria for a public or private company or organization to participate in the program, and may limit the types of motor vehicles that may be included in the program. Under the car share vehicle program, a car share vehicle or ridesharing vehicle shall be assigned a permit, if necessary, by the local authority that allows that vehicle to park in the exclusive or nonexclusive designated parking areas.

(b) If exclusive parking privilege is authorized, the ordinance or resolution described in subdivision (a) does not apply until signs or markings giving adequate notice thereof have been placed.

(c) A local ordinance or resolution adopted pursuant to subdivision (a) may contain provisions that are reasonable and necessary to ensure the effectiveness of a car share vehicle program or ridesharing program.

(d) For purposes of this section, a “car share vehicle” is a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.

SEC. 304.

Section 40215 of the Vehicle Code is amended to read:

40215.

(a) For a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation, exclusive of any days

from the day the processing agency receives a request for a copy or facsimile of the original notice of parking violation pursuant to Section 40206.5 and the day the processing agency complies with the request, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, or in person. There shall not be a charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the issuing agency shall cancel the notice of parking violation or notice of delinquent parking violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice, and, if following that review, cancellation of the notice does not occur, include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure adopted pursuant to subdivision (b) for waiving prepayment of the parking penalty based upon an inability to pay.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking penalty with the processing agency. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, hearings shall be held within the jurisdiction of the issuing agency or within the county of the issuing agency.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

(4)

(A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified examiners or administrative hearing providers that employ qualified examiners to conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement or parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation, collection, or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of fines collected by the examiner.

(B)

(i) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs.

(ii) Training may be provided through any of the following:

(I) An accredited college or university.

(II) A program conducted by the Commission on Peace Officer Standards and Training.

(III) American Arbitration Association or a similar established organization.

(IV) Through any program approved by the governing board of the issuing agency, including a program developed and provided by, or for, the issuing agency.

(iii) Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication.

(iv) Upon the approval of the governing board of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in clause (i) may be credited to an individual, at the discretion of the governing board of the issuing agency, based upon training programs or courses described in clause (ii) that the individual attended within the last five years.

(5) The officer or person who issues a notice of parking violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of parking violation or copy of the notice and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail, and, if the notice is not cancelled, include a written reason for that denial.

(7) The examiner or the issuing agency may, at any stage of the initial review or the administrative hearing process, and consistent with the written guidelines established by the issuing agency, allow payment of the parking penalty in installments, or the issuing agency may allow for deferred payment, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of a parking penalty.

(d) The provisions of this section relating to the administrative appeal process do not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

SEC. 305.

Section 377 of the Water Code is amended to read:

377.

(a) From and after the publication or posting of any ordinance or resolution pursuant to Section 376, a violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. A person convicted under this subdivision shall be punished by imprisonment in

the county jail for not more than 30 days, or by a fine not exceeding one thousand dollars ($ 1,000), or by both.

(b) A court or public entity may hold a person civilly liable in an amount not to exceed ten thousand dollars ($ 10,000) for a violation of any of the following:

(1) An ordinance or resolution adopted pursuant to Section 376.

(2) An emergency regulation adopted by the board under Section 1058.5, unless the board regulation provides that it cannot be enforced under this section.

(c) Commencing on the 31st day after the public entity notified a person of a violation described in subdivision (b), the person additionally may be civilly liable in an amount not to exceed ten thousand dollars ($ 10,000) plus five hundred dollars ($ 500) for each additional day on which the violation continues.

(d) Remedies prescribed in this section are cumulative and not alternative, except that no liability shall be recoverable under this section for any violation of paragraph (2) of subdivision (b) if the board has filed a complaint pursuant to Section 1846 alleging the same violation.

(e) A public entity may administratively impose the civil liability described in subdivisions (b) and (c) after providing notice and an opportunity for a hearing. The public entity shall initiate a proceeding under this subdivision by a complaint issued pursuant to Section 377.5. The public entity shall issue the complaint at least 30 days before the hearing on the complaint and the complaint shall state the basis for the proposed civil liability order.

(f)

(1) In determining the amount of civil liability to assess, a court or public entity shall take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.

(2) The civil liability calculated pursuant to paragraph (1) for the first violation of subdivision (b) by a residential water user shall not exceed one thousand dollars ($ 1,000) except in extraordinary situations where the court or public entity finds all of the following:

(A) The residential user had actual notice of the requirement found to be violated.

(B) The conduct was intentional.

(C) The amount of water involved was substantial.

(g) Civil liability imposed pursuant to this section shall be paid to the public entity and expended solely for the purposes of this chapter.

(h) An order setting administrative civil liability shall become effective and final upon issuance of the order and payment shall be made. Judicial review of any final order shall be pursuant to *Section 1094.5 of the Code of Civil Procedure.*

(i) In addition to the remedies prescribed in this section, a public entity may enforce water use limitations established by an ordinance or resolution adopted pursuant to this chapter, or as otherwise authorized by law, by a volumetric penalty in an amount established by the public entity.

SEC. 306.

Section 10608.34 of the Water Code is amended to read:

10608.34.

(a)

(1) On or before January 1, 2017, the department shall adopt rules for all of the following:

(A) The conduct of standardized water loss audits by urban retail water suppliers in accordance with the method adopted by the American Water Works Association in the third edition of Water Audits and Loss Control Programs, Manual M36 and in the Free Water Audit Software, version 5.0.

(B) The process for validating a water loss audit report prior to submitting the report to the department. For the purposes of this section, “validating” is a process whereby an urban retail water supplier uses a technical expert to confirm the basis of all data entries in the urban retail water supplier’s water loss audit report and to appropriately characterize the quality of the reported data. The validation process shall follow the principles and terminology laid out by the American Water Works Association in the third edition of Water Audits and Loss Control Programs, Manual M36 and in the Free Water Audit Software, version 5.0. A validated water loss audit report shall include the name and technical qualifications of the person engaged for validation.

(C) The technical qualifications required of a person to engage in validation, as described in subparagraph (B).

(D) The certification requirements for a person selected by an urban retail water supplier to provide validation of its own water loss audit report.

(E) The method of submitting a water loss audit report to the department.

(2) The department shall update rules adopted pursuant to paragraph (1) no later than six months after the release of subsequent editions of the American Water Works Association’s Water Audits and Loss Control Programs, Manual M36. Except as provided by the department, until the department adopts updated rules pursuant to this paragraph, an urban retail water supplier may rely upon a subsequent edition of the American Water Works Association’s Water Audits and Loss Control Programs, Manual M36 or the Free Water Audit Software.

(b) On or before October 1, 2017, and on or before October 1 of each year thereafter, each urban retail water supplier shall submit a completed and validated water loss audit report for the previous calendar year or the previous fiscal year as prescribed by the department pursuant to subdivision (a). Water loss audit reports submitted on or before October 1, 2017, may be completed and validated with assistance as described in subdivision (c).

(c) Using funds available for the 2016-17 fiscal year, the board shall contribute up to four hundred thousand dollars ($ 400,000) towards procuring water loss audit report validation assistance for urban retail water suppliers.

(d) Each water loss audit report submitted to the department shall be accompanied by information, in a form specified by the department, identifying steps taken in the preceding year to increase the validity of data entered into the final audit, reduce the volume of apparent losses, and reduce the volume of real losses.

(e) At least one of the following employees of an urban retail water supplier shall attest to each water loss audit report submitted to the department:

(1) The chief financial officer.

(2) The chief engineer.

(3) The general manager.

(f) The department shall deem incomplete and return to the urban retail water supplier any final water loss audit report found by the department to be incomplete, not validated, unattested, or incongruent with known characteristics of water system operations. A water supplier shall resubmit a completed water loss audit report within 90 days of an audit being returned by the department.

(g) The department shall post all validated water loss audit reports on its Internet Web site in a manner that allows for comparisons across water suppliers. The department shall make the validated water loss audit reports available for public viewing in a timely manner after their receipt.

(h) Using available funds, the department shall provide technical assistance to guide urban retail water suppliers' water loss detection programs, including, but not limited to, metering techniques, pressure management techniques, condition-based assessment techniques for transmission and distribution pipelines, and utilization of portable and permanent water loss detection devices.

(i) No earlier than January 1, 2019, and no later than July 1, 2020, the board shall adopt rules requiring urban retail water suppliers to meet performance standards for the volume of water losses. In adopting these rules, the board shall employ full life-cycle cost accounting to evaluate the costs of meeting the performance standards. The board may consider establishing a minimum allowable water loss threshold that, if reached and maintained by an urban water supplier, would exempt the urban water supplier from further water loss reduction requirements.

SEC. 307.

Section 50906 of the Water Code, as amended by Section 1 of Chapter 134 of the Statutes of 2015, is amended to read:

50906.

(a) A reclamation district specified in subdivision (d) may construct, maintain, and operate a plant for the generation of hydroelectric power, together with transmission lines for the conveyance thereof and with other facilities that may be necessary or appropriate for the construction, maintenance, and operation of that plant. Construction of the plant and transmission lines may be financed by the issuance of time warrants pursuant to Article 3 (commencing with Section 53040) of Chapter 1 of Part 9 to pay the cost of construction of the plant, transmission lines, and related facilities, except that the board may, by resolution, provide for the payment of those time warrants solely from the proceeds derived from the operation of the hydroelectric powerplant, in lieu of the assessment described in Section 53040, and may, in that event, pledge the plant, transmission lines, and related facilities and the revenues from the operation of the hydroelectric powerplant as the sole security for the payment of the time warrants.

(b) The hydroelectric powerplant, transmission lines, and related facilities constructed pursuant to this section may be leased for operation to, or the power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity, but shall not be offered for sale directly by the district to customers other than a public utility or public agency.

(c) Proceeds from the sale of electricity shall be utilized to retire any time warrants issued for construction of the facilities and otherwise for the powers and purposes for which the district was formed.

(d) This section applies only to the following reclamation districts:

(1) Reclamation District No. 1004 acting in conjunction with the County of Colusa.

(2) Reclamation District No. 108.

(e) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 308.

Section 50906 of the Water Code, as added by Section 2 of Chapter 134 of the Statutes of 2015, is amended to read:

50906.

(a) A reclamation district specified in subdivision (d) may construct, maintain, and operate a plant for the generation of hydroelectric power, together with transmission lines for the conveyance thereof and with other facilities that may be necessary or appropriate for the construction, maintenance, and operation of that plant. Construction of the plant and transmission lines may be financed by the issuance of time warrants pursuant to Article 3 (commencing with Section 53040) of Chapter 1 of Part 9 to pay the cost of construction of the plant, transmission lines, and related facilities, except that the board may, by resolution, provide for the payment of those time warrants solely from the proceeds derived from the operation of the hydroelectric powerplant, in lieu of the assessment described in Section 53040, and may, in that event, pledge the plant, transmission lines, and related facilities and the revenues from the operation of the hydroelectric powerplant as the sole security for the payment of the time warrants.

(b) The hydroelectric powerplant, transmission lines, and related facilities constructed pursuant to this section may be leased for operation to, or the power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity, but shall not be offered for sale directly by the district to customers other than a public utility or public agency.

(c) Proceeds from the sale of electricity shall be utilized to retire any time warrants issued for construction of the facilities and otherwise for the powers and purposes for which the district was formed.

(d) This section applies only to Reclamation District No. 1004 acting in conjunction with the County of Colusa.

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

SEC. 309.

Section 290.2 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 219 of the Statutes of 2015, is amended to read:

290.2.

Upon the filing of a petition by a probation officer or social worker, the clerk of the juvenile court shall issue notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served as prescribed in this section.

(a) Notice shall be given to the following persons whose address is known or becomes known prior to the initial petition hearing:

(1) The mother.

(2) The father or fathers, presumed and alleged.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) If there is no parent or guardian residing in California, or, if the residence is unknown, to any adult relative residing within the county, or, if none, the adult relative residing nearest the court.

(7) Upon reasonable notification by counsel representing the child, parent, or guardian, the clerk of the court shall give notice to that counsel as soon as possible.

(8) The district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

(9) The probate department of the superior court that appointed the guardian, if the child is a ward of a guardian appointed pursuant to the Probate Code.

(b) Notice is not required for a parent whose parental rights have been terminated.

(c) Notice shall be served as follows:

(1) If the child is retained in custody, the notice shall be given to the persons required to be noticed as soon as possible, and at least five days before the hearing, unless the hearing is set to be heard in less than five days in which case notice shall be given at least 24 hours prior to the hearing.

(2) If the child is not retained in custody, the notice shall be given to those persons required to be noticed at least 10 days prior to the date of the hearing. If any person who is required to be given notice is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition by first-class mail to that person as soon as possible after the filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice is not cause for an arrest or detention. In the instance of a failure to appear after notice by first-class mail, the court shall direct that the notice and copy of the petition be personally served on all persons required to receive the notice and copy of the petition. For these purposes, personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to service by first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at, or prior to, the hearing.

(3) Except as provided in subdivision (e), (f), or (g), notice may be served by electronic mail in lieu of notice by first-class mail if the county, or city and county, and the court choose to permit service by electronic mail and the person to be served has consented to service by electronic mail by signing Judicial Council Form EFS-005.

(d) The notice of the initial petition hearing shall include all of the following:

(1) The date, time, and place of the hearing.

(2) The name of the child.

(3) A copy of the petition.

(e) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

(f) Except as provided in subdivision (g), if notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic mail only if all of the following requirements are satisfied:

(1) The county, or city and county, and the court choose to permit service by electronic mail.

(2) The child is 16 years of age or older.

(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-005.

(4) The attorney for the child has consented to service of the minor by electronic mail by signing Judicial Council Form EFS-005.

(g) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic mail, as well as by regular mail, if all of the following requirements are satisfied:

(1) The county, or city and county, and the court choose to permit service by electronic mail.

(2) The child is 14 or 15 years of age.

(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-005.

(4) The attorney for the child has consented to service of the minor by electronic mail by signing Judicial Council Form EFS-005.

(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 310.

Section 290.2 of the Welfare and Institutions Code, as added by Section 4 of Chapter 219 of the Statutes of 2015, is amended to read:

290.2.

Upon the filing of a petition by a probation officer or social worker, the clerk of the juvenile court shall issue notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served as prescribed in this section.

(a) Notice shall be given to the following persons whose address is known or becomes known prior to the initial petition hearing:

(1) The mother.

(2) The father or fathers, presumed and alleged.

(3) The legal guardian or guardians.

(4) The child, if the child is 10 years of age or older.

(5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(6) If there is no parent or guardian residing in California, or, if the residence is unknown, to any adult relative residing within the county, or, if none, the adult relative residing nearest the court.

(7) Upon reasonable notification by counsel representing the child, parent, or guardian, the clerk of the court shall give notice to that counsel as soon as possible.

(8) The district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

(9) The probate department of the superior court that appointed the guardian, if the child is a ward of a guardian appointed pursuant to the Probate Code.

(b) Notice is not required for a parent whose parental rights have been terminated.

(c) Notice shall be served as follows:

(1) If the child is retained in custody, the notice shall be given to the persons required to be noticed as soon as possible, and at least five days before the hearing, unless the hearing is set to be heard in less than five days in which case notice shall be given at least 24 hours prior to the hearing.

(2) If the child is not retained in custody, the notice shall be given to those persons required to be noticed at least 10 days prior to the date of the hearing. If any person who is required to be given notice is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition by first-class mail to that person as soon as possible after the filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice is not cause for an arrest or detention. In the instance of a failure to appear after notice by first-class mail, the court shall direct that the notice and copy of the petition be personally served on all persons required to receive the

notice and copy of the petition. For these purposes, personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to service by first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at, or prior to, the hearing.

(d) The notice of the initial petition hearing shall include all of the following:

(1) The date, time, and place of the hearing.

(2) The name of the child.

(3) A copy of the petition.

(e) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

(f) This section shall become operative on January 1, 2019.

SEC. 311.

Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21.

(a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Sections 294 and 295, notice of the hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her

parent or legal guardian, or in adoption or the creation of a legal guardianship, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, the facility or agency shall file with the court a report, or a Judicial Council Caregiver Information Form (JV-290), containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e)

(1) At the review hearing held six months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, after considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to a minor parent or a nonminor dependent parent, or an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

(2) Regardless of whether the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and, when relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or legal guardian. The court shall also inform the parent or legal guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case in which, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(3) If the child was under three years of age on the date of the initial removal, or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate

regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under three years of age on the date of initial removal or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

(4) For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group, as described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interests of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interests of each child to schedule a hearing pursuant to Section 366.26 within 120 days for some or all of the members of the sibling group.

(5) If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. The court shall take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration, institutionalization, detention by the United States Department of Homeland Security, or deportation. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

(6) If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (b) of Section 361.2.

(7) In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or legal guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

(8) If the child is not returned to his or her parent or legal guardian, the court shall determine whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian. The court shall order that those services be initiated, continued, or terminated.

(f)

(1) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. After considering the relevant and admissible

evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment.

(A) At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian.

(B) The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental.

(C) In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to a minor parent or a nonminor dependent parent, or an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child, and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(D) For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to successful adulthood.

(2) Regardless of whether the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state placement options. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his

or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

(i) For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

(ii) The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian, if the parent has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, and the court determines either that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian.

(3) For purposes of paragraph (2), in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall find all of the following:

(A) The parent or legal guardian has consistently and regularly contacted and visited with the child, taking into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's arrest and receipt of an immigration hold, detention by the United States Department of Homeland Security, or deportation.

(B) The parent or legal guardian has made significant progress in resolving the problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity or ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

(4) Order that a hearing be held within 120 days, pursuant to Section 366.26, but only if the court does not continue the case to the permanency planning review hearing and there is clear and convincing evidence that reasonable services have been provided or offered to the parents or legal guardians. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan.

(5) Order that the child remain in foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship as of the hearing date. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency that adoption is not in the best interests of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child and shall not preclude a different recommendation at a later date if the child's circumstances change. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.

(A) The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. When the child is under 16 years of age, the court shall order a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. When the child is 16 years of age or older, or is a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501.

(B) If the court orders that a child who is 10 years of age or older remain in foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained.

(C) If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state options for permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court orders a termination of reunification services to the parent or legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

(i)

(1) Whenever a court orders that a hearing pursuant to Section 366.26, including, when, in consultation with the child's tribe, tribal customary adoption is recommended, shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents or legal guardians.

(B) A review of the amount of and nature of any contact between the child and his or her parents or legal guardians and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, “extended family” for the purpose of this subparagraph shall include, but not be limited to, the child’s siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child’s medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including the prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative’s or adoptive parent’s strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange within the state or out of the state.

(G) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(H) In the case of an Indian child, in addition to subparagraphs (A) to (G), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child’s tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2)

(A) A relative caregiver’s preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal

guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, “relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in this section has the same meaning as “relative” as defined in subdivision (c) of Section 11391.

(l) For purposes of this section, evidence of any of the following circumstances shall not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

SEC. 312.

Section 786 of the Welfare and Institutions Code is amended to read:

786.

(a) If a minor satisfactorily completes (1) an informal program of supervision pursuant to Section 654.2, (2) probation under Section 725, or (3) a term of probation for any offense, the court shall order the petition dismissed. The court shall order sealed all records pertaining to that dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and, after advising the court, shall seal the copy of the court’s order that was received. The court shall also provide notice to the minor and minor’s counsel that it has ordered the petition dismissed and the records sealed in the case. The notice shall include an advisement of the minor’s right to nondisclosure of the arrest and proceedings, as specified in subdivision (b).

(b) Upon the court’s order of dismissal of the petition, the arrest and other proceedings in the case shall be deemed not to have occurred and the person who was the subject of the petition may reply accordingly to any inquiry by employers, educational institutions, or other persons or entities regarding the arrest and proceedings in the case.

(c)

(1) For purposes of this section, satisfactory completion of an informal program of supervision or another term of probation described in subdivision (a) shall be deemed to have occurred if the person has no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation and if he or she has not failed to substantially comply with the reasonable orders of supervision or probation that are within his or her capacity to perform. The period of supervision or probation shall not be extended solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records under this section.

(2) An unfulfilled order or condition of restitution, including a restitution fine that can be converted to a civil judgment under Section 730.6 or an unpaid restitution fee shall not be deemed to constitute unsatisfactory completion of supervision or probation under this section.

(d) A court shall not seal a record or dismiss a petition pursuant to this section if the petition was sustained based on the commission of an offense listed in subdivision (b) of Section 707 that was committed when the individual was 14 years of age or older unless the finding on that offense was dismissed or was reduced to a lesser offense that is not listed in subdivision (b) of Section 707.

(e)

(1) The court may, in making its order to seal the record and dismiss the instant petition pursuant to this section, include an order to seal a record relating to, or to dismiss, any prior petition or petitions that have been filed or sustained against the individual and that appear to the satisfaction of the court to meet the sealing and dismissal criteria otherwise described in this section.

(2) An individual who has a record that is eligible to be sealed under this section may ask the court to order the sealing of a record pertaining to the case that is in the custody of a public agency other than a law enforcement agency, the probation department, or the Department of Justice, and the court may grant the request and order that the public agency record be sealed if the court determines that sealing the additional record will promote the successful reentry and rehabilitation of the individual.

(f)

(1) A record that has been ordered sealed by the court under this section may be accessed, inspected, or utilized only under any of the following circumstances:

(A) By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the minor is eligible and suitable for deferred entry of judgment pursuant to Section 790 or is ineligible for a program of supervision as defined in Section 654.3.

(B) By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388.

(C) If a new petition has been filed against the minor for a felony offense, by the probation department for the limited purpose of identifying the minor’s previous court-ordered programs or placements, and in that event solely to determine the individual’s eligibility or suitability for remedial programs or services. The information obtained pursuant to this subparagraph shall not be disseminated to other agencies or individuals, except as necessary to implement a referral to a remedial program or service, and shall not be used to support the imposition of penalties, detention, or other sanctions upon the minor.

(D) Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by Section 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney,

counsel for the minor, or the court for the limited purpose of determining an appropriate juvenile court disposition. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing record in the prior case.

(E) Upon the prosecuting attorney's motion, made in accordance with Section 707, to initiate court proceedings to determine the minor's fitness to be dealt with under the juvenile court law, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of evaluating and determining the minor's fitness to be dealt with under the juvenile court law. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.

(F) By the person whose record has been sealed, upon his or her request and petition to the court to permit inspection of the records.

(G) By the probation department of any county to access the records for the limited purpose of meeting federal Title IV-B and Title IV-E compliance.

(2) Access to, or inspection of, a sealed record authorized by paragraph (1) shall not be deemed an unsealing of the record and shall not require notice to any other agency.

(g)

(1) This section does not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution ordered pursuant to Section 730.6. A minor is not relieved from the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees because the minor's records are sealed.

(2) A victim or a local collection program may continue to enforce victim restitution orders, restitution fines, and court-ordered fines and fees after a record is sealed. The juvenile court shall have access to any records sealed pursuant to this section for the limited purpose of enforcing a civil judgment or restitution order.

(h) This section does not prohibit the State Department of Social Services from meeting its obligations to monitor and conduct periodic evaluations of, and provide reports on, the programs carried under federal Title IV-B and Title IV-E as required by Sections 622, 629 et seq., and 671(a)(7) and (22) of Title 42 of the United States Code, as implemented by federal regulation and state statute.

(i) The Judicial Council shall adopt rules of court, and shall make available appropriate forms, providing for the standardized implementation of this section by the juvenile courts.

SEC. 313.

Section 4474.1 of the Welfare and Institutions Code is amended to read:

4474.1.

(a) Whenever the State Department of Developmental Services proposes the closure of a state developmental center, the department shall be required to submit a detailed plan to the Legislature not later than April 1 immediately prior to the fiscal year in which the plan is to be implemented, and as a part of the Governor's proposed budget. A plan submitted to the Legislature pursuant to this section, including any modifications made pursuant to subdivision (b), shall not be implemented without the approval of the Legislature.

(b) A plan submitted on or before April 1 immediately prior to the fiscal year in which the plan is to be implemented may be subsequently modified during the legislative review process.

(c) Prior to submission of the plan to the Legislature, the department shall solicit input from the State Council on Developmental Disabilities, the Association of Regional Center Agencies, the protection and advocacy agency specified in Section 4901, the local regional center, consumers living in the developmental center, parents, family members, guardians, and conservators of persons living in the developmental centers or their representative organizations, persons with developmental disabilities living in the community, developmental center employees and employee organizations, community care providers, the affected city and county governments, and business and civic organizations, as may be recommended by local state Senate and Assembly representatives.

(d) Prior to the submission of the plan to the Legislature, the department shall confer with the county in which the developmental center is located, the regional centers served by the developmental center, and other state departments using similar occupational classifications, to develop a program for the placement of staff of the developmental center planned for closure in other developmental centers, as positions become vacant, or in similar positions in programs operated by, or through contract with, the county, regional centers, or other state departments, including, but not limited to, the community state staff program, use of state staff for mobile health and crisis teams in the community, and use of state staff in new state-operated models that may be developed as a component of the closure plan.

(e) Prior to the submission of the plan to the Legislature, the department shall confer with the county in which the developmental center is located, and shall consider recommendations for the use of the developmental center property.

(f) Prior to the submission of the plan to the Legislature, the department shall hold at least one public hearing in the community in which the developmental center is located, with public comment from that hearing summarized in the plan.

(g) The plan submitted to the Legislature pursuant to this section shall include all of the following:

(1) A description of the land and buildings at the developmental center.

(2) A description of existing lease arrangements at the developmental center.

(3) A description of resident characteristics, including, but not limited to, age, gender, ethnicity, family involvement, years of developmental center residency, developmental disability, and other factors that will determine service and support needs.

(4) A description of stakeholder input provided pursuant to subdivisions (c), (d), and (e), including a description of local issues, concerns, and recommendations regarding the proposed closure, and alternative uses of the developmental center property.

(5) The impact on residents and their families.

(6) A description of the unique and specialized services provided by the developmental center, including, but not limited to, crisis facilities, health and dental clinics, and adaptive technology services.

(7) A description of the assessment process and community placement decision process that will ensure necessary services and supports are in place prior to a resident transitioning into the community.

(8) Anticipated alternative placements for residents.

(9) A description of how the department will transition the client rights advocacy contract provided at the developmental center pursuant to Section 4433 to the community.

(10) A description of how the well-being of the residents will be monitored during and following their transition into the community.

(11) The impact on regional center services.

(12) Where services will be obtained that, upon closure of the developmental center, will no longer be provided by that facility.

(13) A description of the potential job opportunities for developmental center employees, activities the department will undertake to support employees through the closure process, and other efforts made to mitigate the effect of the closure on employees.

(14) The fiscal impact of the closure.

(15) The timeframe in which closure will be accomplished.

SEC. 314.

Section 11203 of the Welfare and Institutions Code is amended to read:

11203.

(a) During those times as the federal government provides funds for the care of a needy relative with whom a needy child or needy children are living, aid to the child or children for any month includes aid to meet the needs of that relative, if money payments are made with respect to the child or children for that month, and if the relative is not receiving aid under Chapter 3 (commencing with Section 12000) or 5.1 (commencing with Section 13000) of this part or Part A of Title XVI of the Social Security Act for that month. Needy relatives under this chapter include only natural or adoptive parents, the spouse of a natural or adoptive parent, and other needy caretaker relatives.

(b)

(1) The parent or parents shall be considered living with the needy child or needy children for a period of up to 180 consecutive days of the needy child's or children's absence from the family assistance unit and the parent or parents shall be eligible for services under this chapter, including services funded under Sections 15204.2 and 15204.8, if all of the following conditions are met:

(A) The child has been removed from the parent or parents and placed in out-of-home care.

(B) When the child was removed from the parent or parents, the family was receiving aid under this section.

(C) The county has determined that the provision of services under this chapter, including services funded under Sections 15204.2 and 15204.8, is necessary for reunification.

(2) For purposes of this subdivision, the parent or parents shall not be eligible for any payment of aid under Section 11450.

(c) The department shall revise its state Temporary Assistance for Needy Families plan to incorporate the provisions of subdivision (b) and to incorporate the good cause exception provisions authorized by paragraph (10) of subsection (a) of Section 608 of Title 42 of the United States Code with respect to cases in which reunification occurs after 180 consecutive days from the date of the removal of the child or children from the home.

SEC. 315.

Section 11469 of the Welfare and Institutions Code is amended to read:

11469.

(a) The department shall develop, following consultation with group home providers, the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, the State Department of Health Care Services, and stakeholders, performance standards and outcome measures for determining the

effectiveness of the care and supervision, as defined in subdivision (b) of Section 11460, provided by group homes under the AFDC-FC program pursuant to Sections 11460 and 11462. These standards shall be designed to measure group home program performance for the client group that the group home program is designed to serve.

(1) The performance standards and outcome measures shall be designed to measure the performance of group home programs in areas over which the programs have some degree of influence, and in other areas of measurable program performance that the department can demonstrate are areas over which group home programs have meaningful managerial or administrative influence.

(2) These standards and outcome measures shall include, but are not limited to, the effectiveness of services provided by each group home program, and the extent to which the services provided by the group home assist in obtaining the child welfare case plan objectives for the child.

(3) In addition, when the group home provider has identified as part of its program for licensing, ratesetting, or county placement purposes, or has included as a part of a child's case plan by mutual agreement between the group home and the placing agency, specific mental health, education, medical, and other child-related services, the performance standards and outcome measures may also measure the effectiveness of those services.

(b) Regulations regarding the implementation of the group home performance standards system required by this section shall be adopted no later than one year prior to implementation. The regulations shall specify both the performance standards system and the manner by which the AFDC-FC rate of a group home program shall be adjusted if performance standards are not met.

(c) Except as provided in subdivision (d), effective July 1, 1995, group home performance standards shall be implemented. Any group home program not meeting the performance standards shall have its AFDC-FC rate, set pursuant to Section 11462, adjusted according to the regulations required by this section.

(d) A group home program shall be classified at rate classification level 13 or 14 only if all of the following are met:

(1) The program generates the requisite number of points for rate classification level 13 or 14.

(2) The program only accepts children with special treatment needs as determined through the assessment process pursuant to paragraph (2) of subdivision (a) of Section 11462.01.

(3) The program meets the performance standards designed pursuant to this section.

(e) Notwithstanding subdivision (c), the group home program performance standards system shall not be implemented prior to the implementation of the AFDC-FC performance standards system.

(f) On or before January 1, 2016, the department shall develop, following consultation with the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, research entities, foster children, advocates for foster children, foster care provider business entities organized and operated on a nonprofit basis, Indian tribes, and other stakeholders, additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts and delinquency petition filings arising from incidents of allegedly unlawful behavior by minors occurring in group homes or under the supervision of group home staff, including individualized behavior management programs, emergency intervention plans, and conflict resolution processes.

(g) On or before January 1, 2017, the department shall develop, following consultation with the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, the Medical Board of California,

research entities, foster children, advocates for foster children, foster care provider business entities organized and operated on a nonprofit basis, Indian tribes, and other stakeholders, additional performance standards and outcome measures that require group homes to implement alternative programs and services, including individualized behavior management programs, emergency intervention plans, and conflict resolution processes.

SEC. 316.

Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall do all of the following:

(a)

(1) Do either of the following:

(A) For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter operates as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(B) For applications received on or after October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. The assignment shall apply only to support that accrues during the period of time that the applicant is receiving assistance under this chapter, and shall not exceed the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(2) Support that has been assigned pursuant to paragraph (1) and that accrues while the family is receiving aid under this chapter shall be permanently assigned until the entire amount of aid paid has been reimbursed.

(3) If the federal government does not permit states to adopt the same order of distribution for preassistance and postassistance child support arrears that are assigned on or after October 1, 1998, support arrears that accrue before the family receives aid under this chapter that are assigned pursuant to this subdivision shall be assigned as follows:

(A) Child support assigned prior to January 1, 1998, shall be permanently assigned until aid is no longer received and the entire amount of aid has been reimbursed.

(B) Child support assigned on or after January 1, 1998, but prior to October 1, 2000, shall be temporarily assigned until aid under this chapter is no longer received and the entire amount of aid paid has been reimbursed or until October 1, 2000, whichever comes first.

(C) On or after October 1, 2000, support assigned pursuant to this subdivision that was not otherwise permanently assigned shall be temporarily assigned to the county until aid is no longer received.

(D) On or after October 1, 2000, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(4) If the federal government permits states to adopt the same order of distribution for preassistance and postassistance child support arrears, child support arrears shall be assigned, as follows:

(A) Child support assigned pursuant to this subdivision prior to October 1, 1998, shall be assigned until aid under this chapter is no longer received and the entire amount has been reimbursed.

(B) On or after October 1, 1998, child support assigned pursuant to this subdivision that accrued before the family receives aid under this chapter and that was not otherwise permanently assigned shall be temporarily assigned until aid under this chapter is no longer received.

(C) On or after October 1, 1998, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(b)

(1) Cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception pursuant to Section 11477.04. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, completes the necessary forms, and agrees to cooperate with the local child support agency in securing support and determining paternity, if applicable. The local child support agency shall have staff available, in person or by telephone, at all county welfare offices and shall conduct an interview with each applicant to obtain information necessary to establish paternity and establish, modify, or enforce a support order at the time of the initial interview with the welfare office. The local child support agency shall make the determination of cooperation. If the applicant or recipient attests under penalty of perjury that he or she cannot provide the information required by this subdivision, the local child support agency shall make a finding regarding whether the individual could reasonably be expected to provide the information before the local child support agency determines whether the individual is cooperating. In making the finding, the local child support agency shall consider all of the following:

(A) The age of the child for whom support is sought.

(B) The circumstances surrounding the conception of the child.

(C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.

(D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.

(2) Cooperation includes all of the following:

(A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

(B) Appearing at interviews, hearings, and legal proceedings, provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.

(C) If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.

(D) Providing any additional information known to, or reasonably obtainable by, the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.

(3) A recipient or applicant shall not be required to sign a voluntary declaration of paternity, as set forth in Chapter 3 (commencing with *Section 7570) of Part 2 of Division 12 of the Family Code*, as a condition of cooperation.

(c)

(1) This section does not apply if all of the adults are excluded from the assistance unit pursuant to Section 11251.3, 11454, or 11486.5, or if all eligible adults have been subject to Section 11327.5 for at least 12 consecutive months.

(2) It is the intent of the Legislature that the regular receipt of child support in the preceding reporting period be considered in determining reasonably anticipated income for the following reporting period.

(3) In accordance with Sections 11265.2 and 11265.46, if the income of an assistance unit described in paragraph (1) includes reasonably anticipated income derived from child support, the amount established in *Section 17504 of the Family Code* and *Section 11475.3 of the Welfare and Institutions Code* of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

SEC. 317.

*Section 14094.3 of the Welfare and Institutions Code*is amended to read:

14094.3.

(a) Notwithstanding this article or Section 14093.05 or 14094.1, CCS covered services shall not be incorporated into any Medi-Cal managed care contract entered into after August 1, 1994, pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.9 (commencing with Section 14088), Article 2.91 (commencing with Section 14089), Article 2.95 (commencing with Section 14092); or either Article 1 (commencing with Section 14200), or Article 7 (commencing with Section 14490) of Chapter 8, until January 1, 2017, except for contracts entered into for county organized health systems or Regional Health Authority in the Counties of San Mateo, Santa Barbara, Solano, Yolo, Marin, and Napa.

(b) Notwithstanding any other provision of this chapter, providers serving children under the CCS program who are enrolled with a Medi-Cal managed care contractor but who are not enrolled in a pilot project pursuant to subdivision (c) shall continue to submit billing for CCS covered services on a fee-for-service basis until CCS covered services are incorporated into the Medi-Cal managed care contracts described in subdivision (a).

(c)

(1) The department may authorize a pilot project in Solano County in which reimbursement for conditions eligible under the CCS program may be reimbursed on a capitated basis pursuant to Section 14093.05, and provided all CCS program's guidelines, standards, and regulations are adhered to, and the CCS program's case management is utilized.

(2) During the time period described in subdivision (a), the department may approve, implement, and evaluate limited pilot projects under the CCS program to test alternative managed care models tailored to the special health care needs of children under the CCS program. The pilot projects may include, but need not be limited to, coverage of different geographic areas, focusing on certain subpopulations, and the employment of different payment and incentive models. Pilot project proposals from CCS program-approved providers shall be given preference. All pilot projects shall utilize CCS program-approved standards and providers pursuant to Section 14094.1.

(d) For purposes of this section, CCS covered services include all program benefits administered by the program specified in *Section 123840 of the Health and Safety Code* regardless of the funding source.

(e) This section shall not be construed to exclude or restrict CCS eligible children from enrollment with a managed care contractor, or from receiving from the managed care contractor with which they are enrolled primary and other health care unrelated to the treatment of the CCS eligible condition.

SEC. 318.

Section 14126.022 of the Welfare and Institutions Code is amended to read:

14126.022.

(a)

(1) By August 1, 2011, the department shall develop the Skilled Nursing Facility Quality and Accountability Supplemental Payment System, subject to approval by the federal Centers for Medicare and Medicaid Services, and the availability of federal, state, or other funds.

(2)

(A) The system shall be utilized to provide supplemental payments to skilled nursing facilities that improve the quality and accountability of care rendered to residents in skilled nursing facilities, as defined in subdivision (c) of *Section 1250 of the Health and Safety Code*, and to penalize those facilities that do not meet measurable standards.

(B) A freestanding pediatric subacute care facility, as defined in Section 51215.8 of Title 22 of the California Code of Regulations, shall be exempt from the Skilled Nursing Facility Quality and Accountability Supplemental Payment System.

(3) The system shall be phased in, beginning with the 2010-11 rate year.

(4) The department may utilize the system to do all of the following:

(A) Assess overall facility quality of care and quality of care improvement, and assign quality and accountability payments to skilled nursing facilities pursuant to performance measures described in subdivision (i).

(B) Assign quality and accountability payments or penalties relating to quality of care, or direct care staffing levels, wages, and benefits, or both.

(C) Limit the reimbursement of legal fees incurred by skilled nursing facilities engaged in the defense of governmental legal actions filed against the facilities.

(D) Publish each facility's quality assessment and quality and accountability payments in a manner and form determined by the director, or his or her designee.

(E) Beginning with the 2011-12 fiscal year, establish a base year to collect performance measures described in subdivision (i).

(F) Beginning with the 2011-12 fiscal year, in coordination with the State Department of Public Health, publish the direct care staffing level data and the performance measures required pursuant to subdivision (i).

(5) The department, in coordination with the State Department of Public Health, shall report to the relevant Assembly and Senate budget subcommittees by May 1, 2016, information regarding the quality and accountability supplemental payments, including, but not limited to, its assessment of whether the payments are adequate to incentivize quality care and to sustain the program.

(b)

(1) There is hereby created in the State Treasury, the Skilled Nursing Facility Quality and Accountability Special Fund. The fund shall contain moneys deposited pursuant to subdivisions (g) and (j) to (m), inclusive. Notwithstanding *Section 16305.7 of the Government Code*, the fund shall contain all interest and dividends earned on moneys in the fund.

(2) Notwithstanding *Section 13340 of the Government Code*, the fund shall be continuously appropriated without regard to fiscal year to the department for making quality and accountability payments, in accordance with subdivision (n), to facilities that meet or exceed predefined measures as established by this section.

(3) Upon appropriation by the Legislature, moneys in the fund may also be used for any of the following purposes:

(A) To cover the administrative costs incurred by the State Department of Public Health for positions and contract funding required to implement this section.

(B) To cover the administrative costs incurred by the State Department of Health Care Services for positions and contract funding required to implement this section.

(C) To provide funding assistance for the Long-Term Care Ombudsman Program activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5.

(c) No appropriation associated with Chapter 717 of the Statutes of 2010 is intended to implement the provisions of *Section 1276.65 of the Health and Safety Code*.

(d)

(1) There is hereby appropriated for the 2010-11 fiscal year, one million nine hundred thousand dollars ($ 1,900,000) from the Skilled Nursing Facility Quality and Accountability Special Fund to the California Department of Aging for the Long-Term Care Ombudsman Program activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5. It is the intent of the Legislature for the one million nine hundred thousand dollars ($ 1,900,000) from the fund to be in addition to the four million one hundred sixty-eight thousand dollars ($ 4,168,000) proposed in the Governor's May Revision for the 2010-11 Budget. It is further the intent of the Legislature to increase this level of appropriation in subsequent years to provide support sufficient to carry out the mandates and activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5.

(2) The department, in partnership with the California Department of Aging, shall seek approval from the federal Centers for Medicare and Medicaid Services to obtain federal Medicaid reimbursement for activities conducted by the Long-Term Care Ombudsman Program. The department shall report to the fiscal committees of the Legislature during budget

hearings on progress being made and any unresolved issues during the 2011-12 budget deliberations.

(e) There is hereby created in the Special Deposit Fund established pursuant to *Section 16370 of the Government Code*, the Skilled Nursing Facility Minimum Staffing Penalty Account. The account shall contain all moneys deposited pursuant to subdivision (f).

(f)

(1) Beginning with the 2010-11 fiscal year, the State Department of Public Health shall use the direct care staffing level data it collects to determine whether a skilled nursing facility has met the nursing hours per patient per day requirements pursuant to *Section 1276.5 of the Health and Safety Code*.

(2)

(A) Beginning with the 2010-11 fiscal year, the State Department of Public Health shall assess a skilled nursing facility, licensed pursuant to subdivision (c) of *Section 1250 of the Health and Safety Code*, an administrative penalty if the State Department of Public Health determines that the skilled nursing facility fails to meet the nursing hours per patient per day requirements pursuant to *Section 1276.5 of the Health and Safety Code*, as follows:

(i) Fifteen thousand dollars ($ 15,000) if the facility fails to meet the requirements for 5 percent or more of the audited days up to 49 percent.

(ii) Thirty thousand dollars ($ 30,000) if the facility fails to meet the requirements for over 49 percent or more of the audited days.

(B)

(i) If the skilled nursing facility does not dispute the determination or assessment, the penalties shall be paid in full by the licensee to the State Department of Public Health within 30 days of the facility's receipt of the notice of penalty and deposited into the Skilled Nursing Facility Minimum Staffing Penalty Account.

(ii) The State Department of Public Health may, upon written notification to the licensee, request that the department offset any moneys owed to the licensee by the Medi-Cal program or any other payment program administered by the department to recoup the penalty provided for in this section.

(C)

(i) If a facility disputes the determination or assessment made pursuant to this paragraph, the facility shall, within 15 days of the facility's receipt of the determination and assessment, simultaneously submit a request for appeal to both the department and the State Department of Public Health. The request shall include a detailed statement describing the reason for appeal and include all supporting documents the facility will present at the hearing.

(ii) Within 10 days of the State Department of Public Health's receipt of the facility's request for appeal, the State Department of Public Health shall submit, to both the facility and the department, all supporting documents that will be presented at the hearing.

(D) The department shall hear a timely appeal and issue a decision as follows:

(i) The hearing shall commence within 60 days from the date of receipt by the department of the facility's timely request for appeal.

(ii) The department shall issue a decision within 120 days from the date of receipt by the department of the facility's timely request for appeal.

(iii) The decision of the department's hearing officer, when issued, shall be the final decision of the State Department of Public Health.

(E) The appeals process set forth in this paragraph shall be exempt from Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with *Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code*. The provisions of *Sections 100171 and 131071 of the Health and Safety Code* do not apply to appeals under this paragraph.

(F) If a hearing decision issued pursuant to subparagraph (D) is in favor of the State Department of Public Health, the skilled nursing facility shall pay the penalties to the State Department of Public Health within 30 days of the facility's receipt of the decision. The penalties collected shall be deposited into the Skilled Nursing Facility Minimum Staffing Penalty Account.

(G) The assessment of a penalty under this subdivision does not supplant the State Department of Public Health's investigation process or issuance of deficiencies or citations under Chapter 2.4 (commencing with *Section 1417) of Division 2 of the Health and Safety Code*.

(g) The State Department of Public Health shall transfer, on a monthly basis, all penalty payments collected pursuant to subdivision (f) into the Skilled Nursing Facility Quality and Accountability Special Fund.

(h) This section does not impact the effectiveness or utilization of *Section 1278.5 or 1432 of the Health and Safety Code* relating to whistleblower protections, or *Section 1420 of the Health and Safety Code* relating to complaints.

(i)

(1) Beginning in the 2010-11 fiscal year, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, shall establish and publish quality and accountability measures, benchmarks, and data submission deadlines by November 30, 2010.

(2) The methodology developed pursuant to this section shall include, but not be limited to, the following requirements and performance measures:

(A) Beginning in the 2011-12 fiscal year:

(i) Immunization rates.

(ii) Facility acquired pressure ulcer incidence.

(iii) The use of physical restraints.

(iv) Compliance with the nursing hours per patient per day requirements pursuant to *Section 1276.5 of the Health and Safety Code*.

(v) Resident and family satisfaction.

(vi) Direct care staff retention, if sufficient data is available.

(B) If this act is extended beyond the dates on which it becomes inoperative and is repealed, in accordance with Section 14126.033, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, beginning in the 2013-14 rate year, shall incorporate additional measures into the system, including, but not limited to, quality and accountability measures required by federal health care reform that are identified by the federal Centers for Medicare and Medicaid Services.

(C) The department, in consultation with representatives from the long-term care industry, organized labor, and consumers, may incorporate additional performance measures, including, but not limited to, the following:

(i) Compliance with state policy associated with the United States Supreme Court decision in Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581.

(ii) Direct care staff retention, if not addressed in the 2012-13 rate year.

(iii) The use of chemical restraints.

(D) Beginning with the 2015-16 fiscal year, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, shall incorporate direct care staff retention as a performance measure in the methodology developed pursuant to this section.

(j)

(1) Beginning with the 2010-11 rate year, and pursuant to subparagraph (B) of paragraph (5) of subdivision (a) of Section 14126.023, the department shall set aside savings achieved from setting the professional liability insurance cost category, including any insurance deductible costs paid by the facility, at the 75th percentile. From this amount, the department shall transfer the General Fund portion into the Skilled Nursing Facility Quality and Accountability Special Fund. A skilled nursing facility shall provide supplemental data on insurance deductible costs to facilitate this adjustment, in the format and by the deadlines determined by the department. If this data is not provided, a facility's insurance deductible costs will remain in the administrative costs category.

(2) Notwithstanding paragraph (1), for the 2012-13 rate year only, savings from capping the professional liability insurance cost category pursuant to paragraph (1) shall remain in the General Fund and shall not be transferred to the Skilled Nursing Facility Quality and Accountability Special Fund.

(k) For the 2013-14 rate year, if there is a rate increase in the weighted average Medi-Cal reimbursement rate, the department shall set aside the first 1 percent of the weighted average Medi-Cal reimbursement rate increase for the Skilled Nursing Facility Quality and Accountability Special Fund.

(l) If this act is extended beyond the dates on which it becomes inoperative and is repealed, for the 2014-15 rate year, in addition to the amount set aside pursuant to subdivision (k), if there is a rate increase in the weighted average Medi-Cal reimbursement rate, the department shall set aside at least one-third of the weighted average Medi-Cal reimbursement rate increase, up to a maximum of 1 percent, from which the department shall transfer the General Fund portion of this amount into the Skilled Nursing Facility Quality and Accountability Special Fund.

(m) Beginning with the 2015-16 rate year, and each subsequent rate year thereafter for which this article is operative, an amount equal to the amount deposited in the fund pursuant to subdivisions (k) and (l) for the 2014-15 rate year shall be deposited into the Skilled Nursing Facility Quality and Accountability Special Fund, for the purposes specified in this section.

(n)

(1)

(A) Beginning with the 2013-14 rate year, the department shall pay a supplemental payment, by April 30, 2014, to skilled nursing facilities based on all of the criteria in subdivision (i), as published by the department, and according to performance measure benchmarks determined by the department in consultation with stakeholders.

(B)

(i) The department may convene a diverse stakeholder group, including, but not limited to, representatives from consumer groups and organizations, labor, nursing home providers, advocacy organizations involved with the aging community, staff from the Legislature, and other interested parties, to discuss and analyze alternative

mechanisms to implement the quality and accountability payments provided to nursing homes for reimbursement.

(ii) The department shall articulate in a report to the fiscal and appropriate policy committees of the Legislature the implementation of an alternative mechanism as described in clause (i) at least 90 days prior to any policy or budgetary changes, and seek subsequent legislation in order to enact the proposed changes.

(2) Skilled nursing facilities that do not submit required performance data by the department's specified data submission deadlines pursuant to subdivision (i) are not eligible to receive supplemental payments.

(3) Notwithstanding paragraph (1), if a facility appeals the performance measure of compliance with the nursing hours per patient per day requirements, pursuant to *Section 1276.5 of the Health and Safety Code*, to the State Department of Public Health, and it is unresolved by the department's published due date, the department shall not use that performance measure when determining the facility's supplemental payment.

(4) Notwithstanding paragraph (1), if the department is unable to pay the supplemental payments by April 30, 2014, then on May 1, 2014, the department shall use the funds available in the Skilled Nursing Facility Quality and Accountability Special Fund as a result of savings identified in subdivisions (k) and (l), less the administrative costs required to implement subparagraphs (A) and (B) of paragraph (3) of subdivision (b), in addition to any Medicaid funds that are available as of December 31, 2013, to increase provider rates retroactively to August 1, 2013.

(o) The department shall seek necessary approvals from the federal Centers for Medicare and Medicaid Services to implement this section. The department shall implement this section only in a manner that is consistent with federal Medicaid law and regulations, and only to the extent that approval is obtained from the federal Centers for Medicare and Medicaid Services and federal financial participation is available.

(p) In implementing this section, the department and the State Department of Public Health may contract as necessary, with California's Medicare Quality Improvement Organization, or other entities deemed qualified by the department or the State Department of Public Health, not associated with a skilled nursing facility, to assist with development, collection, analysis, and reporting of the performance data pursuant to subdivision (i), and with demonstrated expertise in long-term care quality, data collection or analysis, and accountability performance measurement models pursuant to subdivision (i). This subdivision establishes an accelerated process for issuing any contract pursuant to this section. Any contract entered into pursuant to this subdivision is exempt from the requirements of the Public Contract Code, through December 31, 2020.

(q) Notwithstanding Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*, the following apply:

(1) The director shall implement this section, in whole or in part, by means of provider bulletins, or other similar instructions without taking regulatory action.

(2) The State Public Health Officer may implement this section by means of all-facility letters, or other similar instructions without taking regulatory action.

(r) Notwithstanding paragraph (1) of subdivision (n), if a final judicial determination is made by any state or federal court that is not appealed, in any action by any party, or a final determination is made by the administrator of the federal Centers for Medicare and Medicaid Services, that any payments pursuant to subdivisions (a) and (n), are invalid, unlawful, or contrary to any provision of federal law or regulations, or of state law, these subdivisions shall become inoperative, and for the 2011-12 rate year, the rate increase provided under subparagraph (A) of paragraph (4) of subdivision (c) of Section 14126.033 shall be reduced by the amounts described in subdivision (j).

For the 2013-14 and 2014-15 rate years, any rate increase shall be reduced by the amounts described in subdivisions (j) to (l), inclusive.

SEC. 319.

Section 14126.027 of the Welfare and Institutions Code is amended to read:

14126.027.

(a)

(1) The Director of Health Care Services, or his or her designee, shall administer this article.

(2) The regulations and other similar instructions adopted pursuant to this article shall be developed in consultation with representatives of the long-term care industry, organized labor, seniors, and consumers.

(b)

(1) The director may adopt regulations as are necessary to implement this article. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of *Sections 11346.1 and 11349.6 of the Government Code*, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action.

(2) The regulations adopted pursuant to this section may include, but need not be limited to, any regulations necessary for any of the following purposes:

(A) The administration of this article, including the specific analytical process for the proper determination of long-term care rates.

(B) The development of any forms necessary to obtain required cost data and other information from facilities subject to the ratesetting methodology.

(C) To provide details, definitions, formulas, and other requirements.

(c) As an alternative to the adoption of regulations pursuant to subdivision (b), and notwithstanding Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*, the director may implement this article, in whole or in part, by means of a provider bulletin or other similar instructions, without taking regulatory action, provided that no such bulletin or other similar instructions shall remain in effect after July 31, 2020. It is the intent of the Legislature that regulations adopted pursuant to subdivision (b) shall be in place on or before July 31, 2020.

SEC. 320.

*Section 14132.06 of the Welfare and Institutions Code*is amended to read:

14132.06.

(a) Services specified in this section that are provided by a local educational agency are covered Medi-Cal benefits, to the extent federal financial participation is available, and subject to utilization controls and standards adopted by the department, and consistent with Medi-Cal requirements for physician prescription, order, and supervision.

(b) Any provider enrolled on or after January 1, 1993, to provide services pursuant to this section may bill for those services provided on or after January 1, 1993.

(c) This section shall not be interpreted to expand the current category of professional health care practitioners permitted to directly bill the Medi-Cal program.

(d) This section is not intended to increase the scope of practice of any health professional providing services under this section or Medi-Cal requirements for physician prescription, order, and supervision.

(e)

(1) For the purposes of this section, the local educational agency, as a condition of enrollment to provide services under this section, shall be considered the provider of services. A local educational agency provider, as a condition of enrollment to provide services under this section, shall enter into, and maintain, a contract with the department in accordance with guidelines contained in regulations adopted by the director and published in Title 22 of the California Code of Regulations.

(2) Notwithstanding paragraph (1), a local educational agency providing services pursuant to this section shall utilize current safety net and traditional health care providers, when those providers are accessible to specific schoolsites identified by the local educational agency to participate in this program, rather than adding duplicate capacity.

(f) For the purposes of this section, covered services may include all of the following local educational agency services:

(1) Health and mental health evaluations and health and mental health education.

(2) Medical transportation.

(A) The following provisions shall not apply to medical transportation eligible to be billed under this section:

(i) Section 51323(a)(2)(A) of Title 22 of the California Code of Regulations.

(ii) Section 51323(a)(3)(B) of Title 22 of the California Code of Regulations.

(iii) For students whose medical or physical condition does not require the use of a gurney, Section 51231.1(f) of Title 22 of the California Code of Regulations.

(iv) For students whose medical or physical condition does not require the use of a wheelchair, Section 51231.2(e) of Title 22 of the California Code of Regulations.

(B)

(i) Subparagraph (A) shall become inoperative on January 1, 2018, or on the date the director executes a declaration stating that the regulations implementing subparagraph (A) and Section 14115.8 have been updated, whichever is later.

(ii) The department shall post the declaration executed under clause (i) on its Internet Web site and transmit a copy of the declaration to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review and the LEA Ad Hoc Workgroup.

(iii) If subparagraph (A) becomes inoperative on January 1, 2018, subparagraph (A) and this subparagraph shall be inoperative on January 1, 2018, unless a later enacted statute enacted before that date, deletes or extends that date.

(iv) If subparagraph (A) becomes inoperative on the date the director executes a declaration as described in clause (i), subparagraph (A) and this subparagraph shall be inoperative on the January 1 immediately following the date subparagraph (A) becomes inoperative, unless a later enacted statute enacted before that date, deletes or extends that date.

(3) Nursing services.

(4) Occupational therapy.

(5) Physical therapy.

(6) Physician services.

(7) Mental health and counseling services.

(8) School health aide services.

(9) Speech pathology services. These services may be provided by either of the following:

(A) A licensed speech pathologist.

(B) A credentialed speech-language pathologist, to the extent authorized by Chapter 5.3 (commencing with *Section 2530) of Division 2 of the Business and Professions Code*.

(10) Audiology services.

(11) Targeted case management services for children regardless of whether the child has an individualized education plan (IEP) or an individualized family service plan (IFSP).

(g) Local educational agencies may, but need not, provide any or all of the services specified in subdivision (f).

(h) For the purposes of this section, “local educational agency” means the governing body of any school district or community college district, the county office of education, a charter school, a state special school, a California State University campus, or a University of California campus.

(i) Notwithstanding any other law, a community college district, a California State University campus, or a University of California campus, consistent with the requirements of this section, may bill for services provided to any student, regardless of age, who is a Medi-Cal recipient.

(j) No later than July 1, 2013, and every year thereafter, the department shall make publicly accessible an annual accounting of all funds collected by the department from federal Medicaid payments allocable to local educational agencies, including, but not limited to, the funds withheld pursuant to subdivision (g) of Section 14115.8. The accounting shall detail amounts withheld from federal Medicaid payments to each participating local educational agency for that year. One-time costs for the development of this accounting shall not exceed two hundred fifty thousand dollars ($ 250,000).

(k)

(1) If the requirements in paragraphs (2) and (4) are satisfied, the department shall seek federal financial participation for covered services that are provided by a local educational agency pursuant to subdivision (a) to a child who is an eligible Medi-Cal beneficiary, regardless of either of the following:

(A) Whether the child has an IEP or an IFSP.

(B) Whether those same services are provided at no charge to the beneficiary or to the community at large.

(2) The local educational agency shall take all reasonable measures to ascertain and pursue claims for payment of covered services specified in this section against legally liable third parties pursuant to Section 1902(a)(25) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(25)).

(3) If a legally liable third party receives a claim submitted by a local educational agency pursuant to paragraph (2), the legally liable third party shall either reimburse the claim or issue a notice of denial of noncoverage of services or benefits. If there is no response to a claim submitted to a legally liable third party by a local educational agency within 45 days, the local educational agency may bill the Medi-Cal program pursuant to subdivision (b). The local educational agency shall retain a copy of the claim submitted to the legally liable third party for a period of three years.

(4) This subdivision shall not be implemented until the department obtains any necessary federal approvals.

SEC. 321.

Section 14132.275 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 199 of the Statutes of 2015, is amended to read:

14132.275.

(a) The department shall seek federal approval to establish the demonstration project described in this section pursuant to a Medicare or a Medicaid demonstration project or waiver, or a combination of those. Under a Medicare demonstration, the department may contract with the federal Centers for Medicare and Medicaid Services (CMS) and demonstration sites to operate the Medicare and Medicaid benefits in a demonstration project that is overseen by the state as a delegated Medicare benefit administrator, and may enter into financing arrangements with CMS to share in any Medicare Program savings generated by the demonstration project.

(b) After federal approval is obtained, the department shall establish the demonstration project that enables dual eligible beneficiaries to receive a continuum of services that maximizes access to, and coordination of, benefits between the Medi-Cal and Medicare programs and access to the continuum of long-term services and supports and behavioral health services, including mental health and substance use disorder treatment services. The purpose of the demonstration project is to integrate services authorized under the federal Medicaid Program (Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.)) and the federal Medicare Program (Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.)). The demonstration project may also include additional services as approved through a demonstration project or waiver, or a combination of those.

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

(1) “Behavioral health” means Medi-Cal services provided pursuant to Section 51341 of Title 22 of the California Code of Regulations and Drug Medi-Cal substance abuse services provided pursuant to Section 51341.1 of Title 22 of the California Code of Regulations, and any mental health benefits available under the Medicare Program.

(2) “Capitated payment model” means an agreement entered into between CMS, the state, and a managed care health plan, in which the managed care health plan receives a capitation payment for the comprehensive, coordinated provision of Medi-Cal services and benefits under Medicare Part C (42 U.S.C. Sec. 1395w-21 et seq.) and Medicare Part D (42 U.S.C. Sec. 1395w-101 et seq.), and CMS shares the savings with the state from improved provision of Medi-Cal and Medicare services that reduces the cost of those services. Medi-Cal services include long-term services and supports as defined in Section 14186.1, behavioral health services, and any additional services offered by the demonstration site.

(3) “Demonstration site” means a managed care health plan that is selected to participate in the demonstration project under the capitated payment model.

(4) “Dual eligible beneficiary” means an individual 21 years of age or older who is enrolled for benefits under Medicare Part A (42 U.S.C. Sec. 1395c et seq.) and Medicare Part B (42 U.S.C. Sec. 1395j et seq.) and is eligible for medical assistance under the Medi-Cal State Plan.

(d) No sooner than March 1, 2011, the department shall identify health care models that may be included in the demonstration project, shall develop a timeline and process for selecting, financing, monitoring, and evaluating the demonstration sites, and shall provide this timeline and process to the appropriate fiscal and policy committees of the Legislature. The department may implement these demonstration sites in phases.

(e) The department shall provide the fiscal and appropriate policy committees of the Legislature with a copy of any report submitted to CMS to meet the requirements under the demonstration project.

(f) Goals for the demonstration project shall include all of the following:

(1) Coordinate Medi-Cal and Medicare benefits across health care settings and improve the continuity of care across acute care, long-term care, behavioral health, including mental health and substance use disorder services, and home- and community-based services settings using a person-centered approach.

(2) Coordinate access to acute and long-term care services for dual eligible beneficiaries.

(3) Maximize the ability of dual eligible beneficiaries to remain in their homes and communities with appropriate services and supports in lieu of institutional care.

(4) Increase the availability of and access to home- and community-based services.

(5) Coordinate access to necessary and appropriate behavioral health services, including mental health and substance use disorder services.

(6) Improve the quality of care for dual eligible beneficiaries.

(7) Promote a system that is both sustainable and person and family centered by providing dual eligible beneficiaries with timely access to appropriate, coordinated health care services and community resources that enable them to attain or maintain personal health goals.

(g) No sooner than March 1, 2013, demonstration sites shall be established in up to eight counties, and shall include at least one county that provides Medi-Cal services through a two-plan model pursuant to Article 2.7 (commencing with Section 14087.3) and at least one county that provides Medi-Cal services under a county organized health system pursuant to Article 2.8 (commencing with Section 14087.5). The director shall consult with the Legislature, CMS, and stakeholders when determining the implementation date for this section. In determining the counties in which to establish a demonstration site, the director shall consider both of the following:

(1) Local support for integrating medical care, long-term care, and home- and community-based services networks.

(2) A local stakeholder process that includes health plans, providers, mental health representatives, community programs, consumers, designated representatives of in-home supportive services personnel, and other interested stakeholders in the development, implementation, and continued operation of the demonstration site.

(h) In developing the process for selecting, financing, monitoring, and evaluating the health care models for the demonstration project, the department shall enter into a memorandum of understanding with CMS. Upon completion, the memorandum of understanding shall be provided to the fiscal and appropriate policy committees of the Legislature and posted on the department's Internet Web site.

(i) The department shall negotiate the terms and conditions of the memorandum of understanding, which shall address, but are not limited to, the following:

(1) Reimbursement methods for a capitated payment model. Under the capitated payment model, the demonstration sites shall meet all of the following requirements:

(A) Have Medi-Cal managed care health plan and Medicare dual eligible-special needs plan contract experience, or evidence of the ability to meet these contracting requirements.

(B) Be in good financial standing and meet licensure requirements under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*), except for county organized health system plans that are exempt from licensure pursuant to Section 14087.95.

(C) Meet quality measures, which may include Medi-Cal and Medicare Healthcare Effectiveness Data and Information Set measures and other quality measures determined or developed by the department or CMS.

(D) Demonstrate a local stakeholder process that includes dual eligible beneficiaries, managed care health plans, providers, mental health representatives, county health and human services agencies, designated representatives of in-home supportive services personnel, and other interested stakeholders that advise and consult with the demonstration site in the development, implementation, and continued operation of the demonstration project.

(E) Pay providers reimbursement rates sufficient to maintain an adequate provider network and ensure access to care for beneficiaries.

(F) Follow final policy guidance determined by CMS and the department with regard to reimbursement rates for providers pursuant to paragraphs (4) to (7), inclusive, of subdivision (o).

(G) To the extent permitted under the demonstration, pay noncontracted hospitals prevailing Medicare fee-for-service rates for traditionally Medicare covered benefits and prevailing Medi-Cal fee-for-service rates for traditionally Medi-Cal covered benefits.

(2) Encounter data reporting requirements for both Medi-Cal and Medicare services provided to beneficiaries enrolling in the demonstration project.

(3) Quality assurance withholding from the demonstration site payment, to be paid only if quality measures developed as part of the memorandum of understanding and plan contracts are met.

(4) Provider network adequacy standards developed by the department and CMS, in consultation with the Department of Managed Health Care, the demonstration site, and stakeholders.

(5) Medicare and Medi-Cal appeals and hearing process.

(6) Unified marketing requirements and combined review process by the department and CMS.

(7) Combined quality management and consolidated reporting process by the department and CMS.

(8) Procedures related to combined federal and state contract management to ensure access, quality, program integrity, and financial solvency of the demonstration site.

(9) To the extent permissible under federal requirements, implementation of the provisions of Sections 14182.16 and 14182.17 that are applicable to beneficiaries simultaneously eligible for full-scope benefits under Medi-Cal and the Medicare Program.

(10)

(A) In consultation with the hospital industry, CMS approval to ensure that Medicare supplemental payments for direct graduate medical education and Medicare add-on payments, including indirect medical education and disproportionate share hospital adjustments continue to be made available to hospitals for services provided under the demonstration.

(B) The department shall seek CMS approval for CMS to continue these payments either outside the capitation rates or, if contained within the capitation rates, and to the extent permitted under the demonstration project, shall require demonstration sites to provide this reimbursement to hospitals.

(11) To the extent permitted under the demonstration project, the default rate for noncontracting providers of physician services shall be the prevailing Medicare fee schedule for services covered by the Medicare Program and the prevailing Medi-Cal fee schedule for services covered by the Medi-Cal program.

(j)

(1) The department shall comply with and enforce the terms and conditions of the memorandum of understanding with CMS, as specified in subdivision (i). To the extent that the terms and conditions do

not address the specific selection, financing, monitoring, and evaluation criteria listed in subdivision (i), the department:

(A) Shall require the demonstration site to do all of the following:

(i) Comply with additional site readiness criteria specified by the department.

(ii) Comply with long-term services and supports requirements in accordance with Article 5.7 (commencing with Section 14186).

(iii) To the extent permissible under federal requirements, comply with the provisions of Sections 14182.16 and 14182.17 that are applicable to beneficiaries simultaneously eligible for full-scope benefits under both Medi-Cal and the Medicare Program.

(iv) Comply with all transition of care requirements for Medicare Part D benefits as described in Chapters 6 and 14 of the Medicare Managed Care Manual, published by CMS, including transition timeframes, notices, and emergency supplies.

(B) May require the demonstration site to forgo charging premiums, coinsurance, copayments, and deductibles for Medicare Part C and Medicare Part D services.

(2) The department shall notify the Legislature within 30 days of the implementation of each provision in paragraph (1).

(k) The director may enter into exclusive or nonexclusive contracts on a bid or negotiated basis and may amend existing managed care contracts to provide or arrange for services provided under this section. Contracts entered into or amended pursuant to this section shall be exempt from the provisions of Chapter 2 (commencing with *Section 10290) of Part 2 of Division 2 of the Public Contract Code* and Chapter 6 (commencing with *Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code*.

(l)

(1)

(A) Except for the exemptions provided for in this section and in Section 14132.277, the department shall enroll dual eligible beneficiaries into a demonstration site unless the beneficiary makes an affirmative choice to opt out of enrollment or is already enrolled on or before June 1, 2013, in a managed care organization licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*) that has previously contracted with the department as a primary care case management plan pursuant to Article 2.9 (commencing with Section 14088) to provide services to beneficiaries who are HIV positive or who have been diagnosed with AIDS or in any entity with a contract with the department pursuant to Chapter 8.75 (commencing with Section 14591).

(B) Dual eligible beneficiaries who opt out of enrollment into a demonstration site may choose to remain enrolled in fee-for-service Medicare or a Medicare Advantage plan for their Medicare benefits, but shall be mandatorily enrolled into a Medi-Cal managed care health plan pursuant to Section 14182.16, except as exempted under subdivision (c) of Section 14182.16.

(C)

(i) Persons meeting requirements for the Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14591) or a managed care organization licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*) that has previously contracted with the department as a primary care case management plan pursuant to Article 2.9 (commencing with Section 14088) of Chapter 7 to provide services to beneficiaries who are HIV positive or who have been diagnosed with AIDS may select either of these managed care health plans for their Medicare and Medi-Cal benefits if one is available in that county.

(ii) In areas where a PACE plan is available, the PACE plan shall be presented as an enrollment option, included in all enrollment materials, enrollment assistance programs, and outreach programs related to the demonstration project, and made available to beneficiaries whenever enrollment choices and options are presented. Persons meeting the age qualifications for PACE and who choose PACE shall remain in the fee-for-service Medi-Cal and Medicare programs, and shall not be assigned to a managed care health plan for the lesser of 60 days or until they are assessed for eligibility for PACE and determined not to be eligible for a PACE plan. Persons enrolled in a PACE plan shall receive all Medicare and Medi-Cal services from the PACE program pursuant to the three-way agreement between the PACE program, the department, and the Centers for Medicare and Medicaid Services.

(2) To the extent that federal approval is obtained, the department may require that any beneficiary, upon enrollment in a demonstration site, remain enrolled in the Medicare portion of the demonstration project on a mandatory basis for six months from the date of initial enrollment. After the sixth month, a dual eligible beneficiary may elect to enroll in a different demonstration site, a different Medicare Advantage plan, fee-for-service Medicare, PACE, or a managed care organization licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*) that has previously contracted with the department as a primary care case management plan pursuant to Article 2.9 (commencing with Section 14088) to provide services to beneficiaries who are HIV positive or who have been diagnosed with AIDS, for his or her Medicare benefits.

(A) During the six-month mandatory enrollment in a demonstration site, a beneficiary may continue receiving services from an out-of-network Medicare provider for primary and specialty care services only if all of the following criteria are met:

(i) The dual eligible beneficiary demonstrates an existing relationship with the provider prior to enrollment in a demonstration site.

(ii) The provider is willing to accept payment from the demonstration site based on the current Medicare fee schedule.

(iii) The demonstration site would not otherwise exclude the provider from its provider network due to documented quality of care concerns.

(B) The department shall develop a process to inform providers and beneficiaries of the availability of continuity of services from an existing provider and ensure that the beneficiary continues to receive services without interruption.

(3)

(A) Notwithstanding subparagraph (A) of paragraph (1), a dual eligible beneficiary shall be excluded from enrollment in the demonstration project if the beneficiary meets any of the following:

(i) The beneficiary has a prior diagnosis of end-stage renal disease. This clause does not apply to beneficiaries diagnosed with end-stage renal disease subsequent to enrollment in the demonstration project. The director may, with stakeholder input and federal approval, authorize beneficiaries with a prior diagnosis of end-stage renal disease in specified counties to voluntarily enroll in the demonstration project.

(ii) The beneficiary has other health coverage, as defined in paragraph (5) of subdivision (b) of Section 14182.16.

(iii) The beneficiary is enrolled in a home- and community-based waiver that is a Medi-Cal benefit under Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n et seq.), except for persons enrolled in Multipurpose Senior Services Program services or beneficiaries receiving services through a regional center who resides in the County of San Mateo.

(iv) The beneficiary is receiving services through a regional center or state developmental center. However, a beneficiary receiving services through a regional center who resides in the County of San Mateo, by making an affirmative choice to opt in, may voluntarily enroll in the demonstration project, upon receipt of all legal notifications required pursuant to this section and applicable federal requirements.

(v) The beneficiary resides in a geographic area or ZIP Code not included in managed care, as determined by the department and CMS.

(vi) The beneficiary resides in one of the Veterans' Homes of California, as described in Chapter 1 (commencing with *Section 1010) of Division 5 of the Military and Veterans Code*.

(B)

(i) Beneficiaries who have been diagnosed with HIV/AIDS may opt out of the demonstration project at the beginning of any month. The State Department of Public Health may share relevant data relating to a beneficiary's enrollment in the AIDS Drug Assistance Program with the department, and the department may share relevant data relating to HIV-positive beneficiaries with the State Department of Public Health.

(ii) The information provided by the State Department of Public Health pursuant to this subparagraph shall not be further disclosed by the State Department of Health Care Services, and shall be subject to the confidentiality protections of subdivisions (d) and (e) of *Section 121025 of the Health and Safety Code*, except this information may be further disclosed as follows:

(I) To the person to whom the information pertains or the designated representative of that person.

(II) To the Office of AIDS within the State Department of Public Health.

(C) Beneficiaries who are Indians receiving Medi-Cal services in accordance with Section 55110 of Title 22 of the California Code of Regulations may opt out of the demonstration project at the beginning of any month.

(D) The department, with stakeholder input, may exempt specific categories of dual eligible beneficiaries from enrollment requirements in this section based on extraordinary medical needs of specific patient groups or to meet federal requirements.

(4) For the 2013 calendar year, the department shall offer federal Medicare Improvements for Patients and Providers Act of 2008 (*Public Law 110-275*) compliant contracts to existing Medicare Advantage Dual Special Needs Plans (D-SNP) to continue to provide Medicare benefits to their enrollees in their service areas as approved on January 1, 2012. In the 2013 calendar year, beneficiaries in Medicare Advantage and D-SNP plans shall be exempt from the enrollment provisions of subparagraph (A) of paragraph (1), but may voluntarily choose to enroll in the demonstration project. Enrollment into the demonstration project's managed care health plans shall be reassessed in 2014 depending on federal reauthorization of the D-SNP model and the department's assessment of the demonstration plans.

(5) For the 2013 calendar year, demonstration sites shall not offer to enroll dual eligible beneficiaries eligible for the demonstration project into the demonstration site's D-SNP.

(6) The department shall not terminate contracts in a demonstration site with a managed care organization licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340) of Division 2 of the Health and Safety Code*) that has previously contracted with the department as a primary care case management plan pursuant to Article 2.9 (commencing with Section 14088) to provide services to beneficiaries who are HIV positive beneficiaries or who have been diagnosed with AIDS and with any entity with a contract pursuant to Chapter 8.75 (commencing with Section 14591), except as provided in the contract or pursuant to state or federal law.

(m) Notwithstanding *Section 10231.5 of the Government Code*, the department shall conduct an evaluation, in partnership with CMS, to assess outcomes and the experience of dual eligibles in these demonstration sites and shall provide a report to the Legislature after the first full year of demonstration operation, and annually thereafter. A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with *Section 9795 of the Government Code*. The department shall consult with stakeholders regarding the scope and structure of the evaluation.

(n) This section shall be implemented only if and to the extent that federal financial participation or funding is available.

(o) It is the intent of the Legislature that:

(1) In order to maintain adequate provider networks, demonstration sites shall reimburse providers at rates sufficient to ensure access to care for beneficiaries.

(2) Savings under the demonstration project are intended to be achieved through shifts in utilization, and not through reduced reimbursement rates to providers.

(3) Reimbursement policies shall not prevent demonstration sites and providers from entering into payment arrangements that allow for the alignment of financial incentives and provide opportunities for shared risk and shared savings in order to promote appropriate utilization shifts, which encourage the use of home- and community-based services and quality of care for dual eligible beneficiaries enrolled in the demonstration sites.

(4) To the extent permitted under the demonstration project, and to the extent that a public entity voluntarily provides an intergovernmental transfer for this purpose, both of the following shall apply:

(A) The department shall work with CMS in ensuring that the capitation rates under the demonstration project are inclusive of funding currently provided through certified public expenditures supplemental payment programs that would otherwise be impacted by the demonstration project.

(B) Demonstration sites shall pay to a public entity voluntarily providing intergovernmental transfers that previously received reimbursement under a certified public expenditures supplemental payment program, rates that include the additional funding under the capitation rates that are funded by the public entity's intergovernmental transfer.

(5) The department shall work with CMS in developing other reimbursement policies and shall inform demonstration sites, providers, and the Legislature of the final policy guidance.

(6) The department shall seek approval from CMS to permit the provider payment requirements contained in subparagraph (G) of paragraph (1) and paragraphs (10) and (11) of subdivision (i), and Section 14132.276.

(7) Demonstration sites that contract with hospitals for hospital services on a fee-for-service basis that otherwise would have been traditionally Medicare services will achieve savings through utilization changes and not by paying hospitals at rates lower than prevailing Medicare fee-for-service rates.

(p) The department shall enter into an interagency agreement with the Department of Managed Health Care to perform some or all of the department's oversight and readiness review activities specified in this section. These activities may include providing consumer assistance to beneficiaries affected by this section and conducting financial audits, medical surveys, and a review of the adequacy of provider networks of the managed care health plans participating in this section. The interagency agreement shall be updated, as necessary, on an annual basis in order to maintain functional clarity regarding the roles and responsibilities of the Department of Managed Health Care and the department. The department shall not delegate its authority under this section as the single state Medicaid agency to the Department of Managed Health Care.

(q)

(1) Beginning with the May Revision to the 2013-14 Governor's Budget, and annually thereafter, the department shall report to the Legislature on the enrollment status, quality measures, and state costs of the actions taken pursuant to this section.

(2)

(A) By January 1, 2013, or as soon thereafter as practicable, the department shall develop, in consultation with CMS and stakeholders, quality and fiscal measures for health plans to reflect the short- and long-term results of the implementation of this section. The department shall also develop quality thresholds and milestones for these measures. The department shall update these measures periodically to reflect changes in this program due to implementation factors and the structure and design of the benefits and services being coordinated by managed care health plans.

(B) The department shall require health plans to submit Medicare and Medi-Cal data to determine the results of these measures. If the department finds that a health plan is not in compliance with one or more of the measures set forth in this section, the health plan shall, within 60 days, submit a corrective action plan to the department for approval. The corrective action plan shall, at a minimum, include steps that the health plan shall take to improve its performance based on the standard or standards with which the health plan is out of compliance. The plan shall establish interim benchmarks for improvement that shall be expected to be met by the health plan in order to avoid a sanction pursuant to Section 14304. This subparagraph is not intended to limit Section 14304.

(C) The department shall publish the results of these measures, including by posting on the department's Internet Web site, on a quarterly basis.

(r) Notwithstanding Chapter 3.5 (commencing with *Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code*, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. Prior to issuing any letter or similar instrument authorized pursuant to this section, the department shall notify and consult with stakeholders, including advocates, providers, and beneficiaries. The department shall notify the appropriate policy and fiscal committees of the Legislature of its intent to issue instructions under this section at least five days in advance of the issuance.

(s) This section shall be inoperative if the Coordinated Care Initiative becomes inoperative pursuant to Section 34 of the act that added this subdivision.

SEC. 322.

Section 14138.21 of the Welfare and Institutions Code is amended to read:

14138.21.

(a) This article shall not be deemed to affect the amounts paid or the reimbursement methodology applicable to FQHCs for dental services that are provided outside the scope of a contract between the department and an applicable principal health plan that is in effect as of July 1, 2015.

(b) The department shall contract with an independent entity to perform an evaluation of the APM pilot project authorized pursuant to this article. To the extent practicable, the evaluation shall be completed and provided to the appropriate fiscal and policy committees of the Legislature within six months of the conclusion of the pilot project in those counties that are included in the initial pilot project implementation authorized pursuant to paragraph (2) of subdivision (a) of Section 14138.12. The department shall carry out the duty imposed pursuant to this subdivision only if there are sufficient private foundation or nonprofit foundation funds available for this purpose. A report submitted pursuant to this subdivision shall be submitted in compliance with *Section 9795 of the Government Code*.

(c) The evaluation by the independent entity shall assess and report on whether the APM pilot project produced improvements in access to primary care services, care quality, patient experience, and overall health outcomes for APM enrollees. The evaluation shall include existing FQHC required quality metrics and an assessment of how the changes in financing allowed for alternative types of primary care visits and alternative encounters between the participating FQHC and the patient and how those changes affected volume of same-day visits for mental and physical health conditions. The evaluation shall also assess whether the APM pilot project's efforts to improve primary care resulted in changes to patient service utilization patterns, including the reduced utilization of avoidable high-cost services and services provided outside the FQHC. The evaluation shall also identify any administrative and financial implementation issues for FQHCs that may arise if subsequent legislation makes the pilot program operative statewide.

SEC. 323.

Section 15657.03 of the Welfare and Institutions Code, as added by Section 8.5 of Chapter 411 of the Statutes of 2015, is amended to read:

15657.03.

(a)

(1) An elder or dependent adult who has suffered abuse, as defined in Section 15610.07, may seek protective orders as provided in this section.

(2) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of a power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek the relief.

(3)

(A) A petition under this section may be brought on behalf of an elder or dependent adult by a county adult protective services agency in either of the following circumstances:

(i) If the elder or dependent adult has suffered abuse as defined in subdivision (b) and has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm.

(ii) If the elder or dependent adult has provided written authorization to a county adult protective services agency to act on his or her behalf.

(B) In the case of a petition filed pursuant to clause (i) of subparagraph (A) by a county adult protective services agency, a referral shall be made to the public guardian consistent with *Section 2920 of the Probate Code* prior to or concurrent with the filing of the petition, unless a petition for appointment of a conservator has already been filed with the probate court by the public guardian or another party.

(C) A county adult protective services agency shall be subject to any confidentiality restrictions that otherwise apply to its activities under law and shall disclose only those facts as necessary to establish reasonable cause for the filing of the petition, including, in the case of a petition filed pursuant to clause (i) of subparagraph (A), to establish the agency's belief that the elder or dependent adult has suffered abuse and has an impaired ability to appreciate and understand the circumstances that place him or her at risk, and as may be requested by the court in determining whether to issue an order under this section.

(b) For purposes of this section:

(1) "Abuse" has the meaning set forth in Section 15610.07.

(2) “Conservator” means the legally appointed conservator of the person or estate of the petitioner, or both.

(3) “Petitioner” means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.

(4) “Protective order” means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in *Section 653m of the Penal Code*, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner. On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:

(i) Grant the petitioner exclusive care, possession, or control of the animal.

(ii) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(B) An order excluding a party from the petitioner’s residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).

(5) “Respondent” means the person against whom the protective orders are sought and, if the petition is granted, the restrained person.

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with *Section 527 of the Code of Civil Procedure*, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (4) of subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner’s residence or dwelling only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(g) The respondent may file a response that explains or denies the alleged abuse.

(h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (4) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(i)

(1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(3) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of *Section 1005 of the Code of Civil Procedure*, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with *Section 6205) of Division 7 of Title 1 of the Government Code*, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive his or her right to notice if he or she is physically present in court and does not challenge the sufficiency of the notice.

(j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of abuse and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(l) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.

(m) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(n)

(1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

(2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(o)

(1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(3)

The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

"If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address:

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court."

(p)

(1) Information on a protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of *Section 6380 of the Family Code* regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's oral notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of *Section 273.6 of the Penal Code*.

(q) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(r) There shall not be a filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(s) Pursuant to paragraph (4) of subdivision (b) of *Section 6103.2 of the Government Code*, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.

(t) The prevailing party in an action brought under this section may be awarded court costs and attorney's fees, if any.

(u)

(1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to *Section 527.9 of the Code of Civil Procedure.*

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to *Section 29825 of the Penal Code*.

(4) This subdivision does not apply in a case in which a protective order issued under this section was made solely on the basis of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(v) In a proceeding brought under paragraph (3) of subdivision (a), all of the following apply:

(1) Upon the filing of a petition for a protective order, the elder or dependent adult on whose behalf the petition has been filed shall receive a copy of the petition, a notice of the hearing, and any declarations submitted in support of the petition. The elder or dependent adult shall receive this information at least

five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for provision of this information to the elder or dependent adult.

(2) The adult protective services agency shall make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to the court, if he or she wishes to do so. If the elder or dependent adult does not attend the hearing, the agency shall provide information to the court at the hearing regarding the reasons why the elder or dependent adult is not in attendance.

(3) Upon the filing of a petition for a protective order and upon issuance of an order granting the petition, the county adult protective services agency shall take all reasonable steps to provide for the safety of the elder or dependent adult, pursuant to Chapter 13 (commencing with Section 15750), which may include, but are not limited to, facilitating the location of alternative accommodations for the elder or dependent adult, if needed.

(w) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to *Section 273.6 of the Penal Code*.

(x) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with *Section 1788) of Part 4 of Division 3 of the Civil Code*, Chapter 3 (commencing with *Section 525) of Title 7 of Part 2 of the Code of Civil Procedure*, or Division 10 (commencing with *Section 6200) of the Family Code*. This section does not preclude a petitioner's right to use other existing civil remedies.

(y) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and shall be used by parties in actions brought pursuant to this section.

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

SEC. 324.

*Section 16501.1 of the Welfare and Institutions Code*is amended to read:

16501.1.

(a)

(1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(3) The agency shall consider the recommendations of the child and family team, as defined in paragraph (4) of subdivision (a) of Section 16501, if any are available. The agency shall document the rationale for any inconsistencies between the case plan and the child and family team recommendations.

(b)

(1) A case plan shall be based upon the principles of this section and the input from the child and family team.

(2) The case plan shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made. Preplacement services may include intensive mental health services in the home or a community setting and the reasonable efforts made to prevent out-of-home placement.

(3) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(4) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, detained by the United States Department of Homeland Security, or deported to his or her country of origin, the case plan shall include information, to the extent possible, about a parent's incarceration in a county jail or the state prison, detention by the United States Department of Homeland Security, or deportation during the time that a minor child of that parent is involved in dependency care.

(5) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(6) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) If out-of-home placement is used to attain case plan goals, the case plan shall consider the recommendations of the child and family team.

(d)

(1) The case plan shall include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. The decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and the most appropriate setting that meets the child's individual needs and is available, in proximity to the parent's home, in proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, nonrelated extended family members, and tribal members; foster family homes, resource families, and nontreatment certified homes of foster family agencies; followed by treatment and intensive treatment certified homes of foster family agencies; or multidimensional treatment foster care homes or therapeutic foster care homes; group care placements in the order of short-term residential treatment centers, group homes, community treatment facilities, and out-of-state residential treatment pursuant to Part 5 (commencing with *Section 7900) of Division 12 of the Family Code*.

(2) If a short-term intensive treatment center placement is selected for a child, the case plan shall indicate the needs of the child that necessitate this placement, the plan for transitioning the child to a less restrictive environment, and the projected timeline by which the child will be transitioned to a less restrictive environment. This section of the case plan shall be reviewed and updated at least semiannually.

(A) The case plan for placements in a group home, or commencing January 1, 2017, in a short-term residential treatment center, shall indicate that the county has taken into consideration Section 16010.8.

(B) After January 1, 2017, a child and family team meeting as described in Section 16501 shall be convened by the county placing agency for the purpose of identifying the supports and services needed to achieve permanency and enable the child or youth to be placed in the least restrictive family setting that promotes normal childhood experiences.

(3) On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living placement, as described in subdivision (w) of Section 11400,

shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to successful adulthood. If admission to, or continuation in, a group home or short-term residential treatment center placement is being considered for a nonminor dependent, the group home or short-term residential treatment center placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the full range of placement options, and shall specify why admission to, or continuation in, a group home placement is the best alternative available at the time to meet the special needs or well-being of the nonminor dependent, and how the placement will contribute to the nonminor dependent's transition to successful adulthood. The case plan shall specify the treatment strategies that will be used to prepare the nonminor dependent for discharge to a less restrictive family setting that promotes normal childhood experiences, including a target date for discharge from the group home placement. The placement shall be reviewed and updated on a regular, periodic basis to ensure that continuation in the group home placement remains in the best interests of the nonminor dependent and that progress is being made in achieving case plan goals leading to successful adulthood. The group home placement planning process shall begin as soon as it becomes clear to the county welfare department or probation office that a foster child in group home placement is likely to remain in group home placement on his or her 18th birthday, in order to expedite the transition to a less restrictive family setting that promotes normal childhood experiences, if he or she becomes a nonminor dependent. The case planning process shall include informing the youth of all of his or her options, including, but not limited to, admission to or continuation in a group home placement. Consideration for continuation of existing group home placement for a nonminor dependent under 19 years of age may include the need to stay in the same placement in order to complete high school. After a nonminor dependent either completes high school or attains his or her 19th birthday, whichever is earlier, continuation in or admission to a group home placement is prohibited unless the nonminor dependent satisfies the conditions of paragraph (5) of subdivision (b) of Section 11403, and group home placement functions as a short-term transition to the appropriate system of care. Treatment services provided by the group home placement to the nonminor dependent to alleviate or ameliorate the medical condition, as described in paragraph (5) of subdivision (b) of Section 11403, shall not constitute the sole basis to disqualify a nonminor dependent from the group home placement.

(4) In addition to the requirements of paragraphs (1) to (3), inclusive, and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school of origin, and school attendance area, the number of school transfers the child has previously experienced, and the child's school matriculation schedule, in addition to other indicators of educational stability that the Legislature hereby encourages the State Department of Social Services and the State Department of Education to develop.

(e) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Sections 364, 366, 366.3, and 366.31, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families,

and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services/Case Management System (CWS/CMS) to account for the 60-day timeframe for preparing a written case plan.

(f) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(g) The case plan shall be developed considering the recommendations of the child and family team, as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with *Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code*, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the placement agency contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or probation officer, or a social worker or probation officer on the staff of the agency in the state in which the child has been placed, shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled placement agency contact with the foster child, the child's social worker or probation officer shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker or probation officer shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5)

(A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each

of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with *Section 7911.1 of the Family Code*.

(8) A case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9)

(A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(12)

(A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In a voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan. Commencing January 1, 2012, for nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC or CalWORKs assistance up to 21 years of age pursuant to Section 11403, the transitional independent living case plan, as set forth in subdivision (y) of Section 11400, shall be developed with, and signed by, the nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to *Section 1228.1 of the Evidence Code*, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21, 366.22, or 366.25 of this code as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15)

(A) If the case plan has as its goal for the child a permanent plan of adoption or legal guardianship, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, or a legal guardian, and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. Regardless of whether the child has been freed for adoption, documentation shall include a description of any barriers to achieving legal permanence and the steps the agency will take to address those barriers. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(B) When the child is 16 years of age or older and is in another planned permanent living arrangement, the case plan shall identify the intensive and ongoing efforts to return the child to the home of the parent, place the child for adoption, place the child for tribal customary adoption in the case of an Indian child, establish a legal guardianship, or place the child nonminor dependent with a fit and willing relative, as appropriate. Efforts shall include the use of technology, including social media, to find biological family members of the child.

(16)

(A)

(i) For a child who is 14 or 15 years of age, the case plan shall include a written description of the programs and services that will help the child, consistent with the child's best interests, to prepare for the transition from foster care to successful adulthood. The description may be included in the document described in subparagraph (A) of paragraph (18).

(ii) When appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan shall include the transitional independent living plan (TILP), a written description of the programs and services that will help the child, consistent with the child's best interests, to prepare for the transition from foster care to successful adulthood, and, in addition, whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Immigrant Juvenile Status or other applicable application for legal residency and an active dependency case is required for that application. When appropriate, for a nonminor dependent, the transitional independent living case plan, as described in subdivision (v) of Section 11400, shall include the TILP, a written description of the programs and services that will help the nonminor dependent, consistent with his or her best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the supervised independent living placement as defined in subdivision (w) of Section 11400. The case plan shall be developed with the child or nonminor dependent and individuals identified as important to the child or nonminor dependent, and shall include steps the agency is taking to ensure that the child or nonminor dependent achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults.

(B) During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec. 675(8)(B)(iii)), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 of the federal Social Security Act (42 U.S.C. Sec. 677), a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor dependent with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care, and information regarding the advance health care directive form.

(C) For youth 14 years of age or older, the case plan shall include documentation that a consumer credit report was requested annually from each of the three major credit reporting agencies at no charge to the youth and that any results were provided to the

youth. For nonminor dependents, the case plan shall include documentation that the county assisted the nonminor dependent in obtaining his or her reports. The case plan shall include documentation of barriers, if any, to obtaining the credit reports. If the consumer credit report reveals any accounts, the case plan shall detail how the county ensured the youth received assistance with interpreting the credit report and resolving any inaccuracies, including any referrals made for the assistance.

(17) For youth 14 years of age or older and nonminor dependents, the case plan shall be developed in consultation with the youth. At the youth's option, the consultation may include up to two members of the case planning team who are chosen by the youth and who are not foster parents of, or caseworkers for, the youth. The agency, at any time, may reject an individual selected by the youth to be a member of the case planning team if the agency has good cause to believe that the individual would not act in the youth's best interest. One individual selected by the youth to be a member of the case planning team may be designated to be the youth's adviser and advocate with respect to the application of the reasonable and prudent parent standard to the youth, as necessary.

(18) For youth in foster care 14 years of age and older and nonminor dependents, the case plan shall include both of the following:

(A) A document that describes the youth's rights with respect to education, health, visitation, and court participation, the right to be annually provided with copies of his or her credit reports at no cost while in foster care pursuant to Section 10618.6, and the right to stay safe and avoid exploitation.

(B) A signed acknowledgment by the youth that he or she has been provided a copy of the document and that the rights described in the document have been explained to the youth in an age-appropriate manner.

(19) The case plan for a child or nonminor dependent who is, or who is at risk of becoming, the victim of commercial sexual exploitation, shall document the services provided to address that issue.

(h) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(i) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services/Case Management System (CWS/CMS) is implemented on a statewide basis.

(j) When a child is 10 years of age or older and has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker or probation officer shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, or may seek that information from the child and family team, as appropriate. The social worker or probation officer shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(k) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services. The nonminor dependent's caregiver shall be provided with a copy of the nonminor's TILP.

(l) Each county shall ensure that the total number of visits made by caseworkers on a monthly basis to children in foster care during a federal fiscal year is not less than 95 percent of the total number of those visits that would occur if each child were visited once every month while in care and that the majority of the visits occur in the residence of the child. The county child welfare and probation departments shall comply with data reporting requirements that the department deems necessary to comply with the federal Child and Family Services Improvement Act of 2006 (*Public Law 109-288*) and the federal Child and Family Services Improvement and Innovation Act of 2011 (*Public Law 112-34*).

(m) The implementation and operation of the amendments to subdivision (i) enacted at the 2005-06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 325.

*Section 17603 of the Welfare and Institutions Code*is amended to read:

17603.

(a) This subdivision only applies until the end of the 2012-13 fiscal year. On or before the 27th day of each month, the Controller shall allocate to the local health and welfare trust fund health accounts the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund, in accordance with paragraphs (1) and (2):

(1)

For the 1991-92 fiscal year, allocations shall be made in accordance with the following schedule:

JurisdictionAllocation Percentage

Alameda4.5046

Alpine0.0137

Amador0.1512

Butte0.8131

Calaveras0.1367

Colusa0.1195

Contra Costa2.2386

Del Norte0.1340

El Dorado0.5228

Fresno2.3531

Glenn0.1391

Humboldt0.8929

Imperial0.8237

Inyo0.1869

Kern1.6362

Kings0.4084

Lake0.1752

Lassen0.1525

Los Angeles37.2606

Madera0.3656

Marin1.0785

Mariposa0.0815

Mendocino0.2586

Merced0.4094

Modoc0.0923

Mono0.1342

Monterey0.8975

Napa0.4466

Nevada0.2734

Orange5.4304

Placer0.2806

Plumas0.1145

Riverside2.7867

Sacramento2.7497

San Benito0.1701

San Bernardino2.4709

San Diego4.7771

San Francisco7.1450

San Joaquin1.0810

San Luis Obispo0.4811

San Mateo1.5937

Santa Barbara0.9418

Santa Clara3.6238

Santa Cruz0.6714

Shasta0.6732

Sierra0.0340

Siskiyou0.2246

Solano0.9377

Sonoma1.6687

Stanislaus1.0509

Sutter0.4460

Tehama0.2986

Trinity0.1388

Tulare0.7485

Tuolumne0.2357

Ventura1.3658

Yolo0.3522

Yuba0.3076

Berkeley0.0692

Long Beach0.2918

Pasadena0.1385

(2) For the 1992-93 fiscal year and fiscal years thereafter until the commencement of the 2013-14 fiscal year, the allocations to each county and city and county shall equal the amounts received in the prior fiscal year by each county, city, and city and county from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

(b)

(1) For the 2013-14 fiscal year, on the 27th day of each month, the Controller shall allocate, in the same proportion as funds in paragraph (2) of subdivision (a) were allocated, to each county's and city and county's local health and welfare trust fund health accounts, the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund.

(2)

(A) Beginning January 2014 and for the remainder of the 2013-14 fiscal year, on or before the 27th day of each month, the Controller shall transfer to the Family Support Subaccount from the Health Subaccount amounts determined pursuant to a schedule prepared by the Department of Finance in consultation with the California State Association of Counties. Cumulatively, no more than three hundred million dollars ($ 300,000,000) shall be transferred.

(B) Every month, after the transfers in subparagraph (A) have occurred, the remainder shall be allocated to the counties and cities and counties in the same proportions as funds in paragraph (2) of subdivision (a) were allocated.

(C) For counties participating in the County Medical Services Program, transfers from each county shall not be greater than the monthly amount the county would otherwise pay pursuant to paragraph (2) of subdivision (j) of Section 16809 for participation in the County Medical Services Program. Any difference between the amount paid by these counties and the proportional share of the three hundred million dollars ($ 300,000,000) calculated as payable by these counties and the County Medical Services Program shall be paid from the funds available for allocation to the County Medical Services Program in accordance with this code.

(3) For the 2013-14 fiscal year, the Controller, using the same timing and criteria used in paragraph (1), shall allocate to each city, not to include a city and county, funds that shall equal the amounts received in the prior fiscal year by each city from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

(c)

(1) For the 2014-15 fiscal year and for every fiscal year thereafter, the Department of Finance, in consultation with the California State Association of Counties, shall calculate the amount

each county or city and county shall contribute to the Family Support Subaccount in accordance with Section 17600.50.

(2) On or before the 27th day of each month, the Controller shall transfer, based on a schedule prepared by the Department of Finance in consultation with the California State Association of Counties, from the funds deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the Family Support Subaccount, funds that equal, over the course of the year, the amount determined in paragraph (1) pursuant to a schedule provided by the Department of Finance.

(3) After the transfer in paragraph (2) has occurred, the Controller shall allocate on or before the 27th day of each month to the Health Account in the local health and welfare trust fund of every county and city and county from a schedule prepared by the Department of Finance, in consultation with the California State Association of Counties, any funds remaining in the Health Account from the funds deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund. The schedule shall be prepared as the allocations would have been distributed pursuant to paragraph (2) of subdivision (a).

(4) For the 2014-15 fiscal year and for every fiscal year thereafter, the Controller, using the same timing and criteria as had been used in paragraph (2) of subdivision (a), shall allocate to each city, not to include a city and county, funds that equal the amounts received in the prior fiscal year by each city from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

SEC. 326.

Section 24005 of the Welfare and Institutions Code is amended to read:

24005.

(a) This section applies to the Family Planning, Access, Care, and Treatment Program identified in subdivision (aa) of Section 14132 and this program.

(b) Only licensed medical personnel with family planning skills, knowledge, and competency may provide the full range of family planning medical services covered in this program.

(c) Medi-Cal enrolled providers, as determined by the department, shall be eligible to provide family planning services under the program when these services are within their scope of practice and licensure. Those clinical providers electing to participate in the program and approved by the department shall provide the full scope of family planning education, counseling, and medical services specified for the program, either directly or by referral, consistent with standards of care issued by the department.

(d) The department shall require providers to enter into clinical agreements with the department to ensure compliance with standards and requirements to maintain the fiscal integrity of the program. Provider applicants, providers, and persons with an ownership or control interest, as defined in federal Medicaid regulations, shall be required to submit to the department their social security numbers to the full extent allowed under federal law. All state and federal statutes and regulations pertaining to the audit or examination of Medi-Cal providers apply to this program.

(e) Clinical provider agreements shall be signed by the provider under penalty of perjury. The department may screen applicants at the initial application and at any reapplication pursuant to requirements developed by the department to determine provider suitability for the program.

(f) The department may complete a background check on clinical provider applicants for the purpose of verifying the accuracy of information provided to the department for purposes of

enrolling in the program and in order to prevent fraud and abuse. The background check may include, but not be limited to, unannounced onsite inspection prior to enrollment, review of business records, and data searches. If discrepancies are found to exist during the preenrollment period, the department may conduct additional inspections prior to enrollment. Failure to remediate significant discrepancies as prescribed by the director may result in denial of the application for enrollment. Providers that do not provide services consistent with the standards of care or that do not comply with the department's rules related to the fiscal integrity of the program may be disenrolled as a provider from the program at the sole discretion of the department.

(g) The department shall not enroll any applicant who, within the previous 10 years:

(1) Has been convicted of any felony or misdemeanor that involves fraud or abuse in any government program, that relates to neglect or abuse of a patient in connection with the delivery of a health care item or service, or that is in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse.

(2) Has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program.

(h) In addition, the department may deny enrollment to any applicant that, at the time of application, is under investigation by the department or any local, state, or federal government law enforcement agency for fraud or abuse. The department shall not deny enrollment to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges. If it is discovered that a provider is under investigation by the department or any local, state, or federal government law enforcement agency for fraud or abuse, that provider shall be subject to immediate disenrollment from the program.

(i)

(1) The program shall disenroll as a program provider any individual who, or any entity that, has a license, certificate, or other approval to provide health care that is revoked or suspended by a federal, California, or other state's licensing, certification, or other approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate, or approval while a disciplinary hearing on the license, certificate, or approval was pending. The disenrollment shall be effective on the date the license, certificate, or approval is revoked, lost, or surrendered.

(2) A provider shall be subject to disenrollment if the provider submits claims for payment for the services, goods, supplies, or merchandise provided, directly or indirectly, to a program beneficiary, by an individual or entity that has been previously suspended, excluded, or otherwise made ineligible to receive, directly or indirectly, reimbursement from the program or from the Medi-Cal program and the individual has previously been listed on either the Suspended and Ineligible Provider List, which is published by the department, to identify suspended and otherwise ineligible providers or any list published by the federal Office of the Inspector General regarding the suspension or exclusion of individuals or entities from the federal Medicare and Medicaid programs, to identify suspended, excluded, or otherwise ineligible providers.

(3) The department shall deactivate, immediately and without prior notice, the provider numbers used by a provider to obtain reimbursement from the program when warrants or documents mailed to a provider's mailing address, its pay to address, or its service address, if any, are returned by the United States Postal Service as not deliverable or when a provider has not submitted a claim for reimbursement from the program for one year. Prior to taking this action, the department shall use due diligence in attempting to contact the provider at its last known telephone number and to ascertain if the return by the United States Postal Service is by mistake and shall use due diligence in attempting to contact the provider by telephone or in writing to ascertain whether the provider wishes to continue to participate in the Medi-Cal

program. If deactivation pursuant to this section occurs, the provider shall meet the requirements for reapplication as specified in regulation.

(4) For purposes of this subdivision:

(A) "Mailing address" means the address that the provider has identified to the department in its application for enrollment as the address at which it wishes to receive general program correspondence.

(B) "Pay to address" means the address that the provider has identified to the department in its application for enrollment as the address at which it wishes to receive warrants.

(C) "Service address" means the address that the provider has identified to the department in its application for enrollment as the address at which the provider will provide services to program beneficiaries.

(j) Subject to Article 4 (commencing with *Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code*, the department may enter into contracts to secure consultant services or information technology including, but not limited to, software, data, or analytical techniques or methodologies for the purpose of fraud or abuse detection and prevention. Contracts under this section shall be exempt from the Public Contract Code.

(k) Enrolled providers shall attend specific orientation approved by the department in comprehensive family planning services. Enrolled providers who insert IUDs or contraceptive implants shall have received prior clinical training specific to these procedures.

(l) Upon receipt of reliable evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with *Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code*, of fraud or willful misrepresentation by a provider under the program or commencement of a suspension under Section 14123, the department may do any of the following:

(1) Collect any State-Only Family Planning program or Family Planning, Access, Care, and Treatment Program overpayment identified through an audit or examination, or any portion thereof from any provider. Notwithstanding *Section 100171 of the Health and Safety Code*, a provider may appeal the collection of overpayments under this section pursuant to procedures established in Article 5.3 (commencing with Section 14170) of Chapter 7 of Part 3 of Division 9. Overpayments collected under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings, if the findings are against the provider. Overpayments shall be returned to a provider with interest if findings are in favor of the provider.

(2) Withhold payment for any goods or services, or any portion thereof, from any State-Only Family Planning program or Family Planning, Access, Care, and Treatment Program provider. The department shall notify the provider within five days of any withholding of payment under this section. The notice shall do all of the following:

(A) State that payments are being withheld in accordance with this paragraph and that the withholding is for a temporary period and will not continue after it is determined that the evidence of fraud or willful misrepresentation is insufficient or when legal proceedings relating to the alleged fraud or willful misrepresentation are completed.

(B) Cite the circumstances under which the withholding of the payments will be terminated.

(C) Specify, when appropriate, the type or types of claimed payments being withheld.

(D) Inform the provider of the right to submit written evidence that is evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with *Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code*, for consideration by the department.

(3) Notwithstanding *Section 100171 of the Health and Safety Code*, a provider may appeal a withholding of payment under this section pursuant to Section 14043.65. Payments withheld under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings.

(m) As used in this section:

(1) "Abuse" means either of the following:

(A) Practices that are inconsistent with sound fiscal or business practices and result in unnecessary cost to the Medicaid program, the Medicare program, the Medi-Cal program, including the Family Planning, Access, Care, and Treatment Program, identified in subdivision (aa) of Section 14132, another state's Medicaid program, or the State-Only Family Planning program, or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state.

(B) Practices that are inconsistent with sound medical practices and result in reimbursement, by any of the programs referred to in subparagraph (A) or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.

(2) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(3) "Provider" means any individual, partnership, group, association, corporation, institution, or other entity, and the officers, directors, owners, managing employees, or agents of any partnership, group, association, corporation, institution, or other entity, that provides services, goods, supplies, or merchandise, directly or indirectly, to a beneficiary and has been enrolled in the program.

(4) "Convicted" means any of the following:

(A) A judgment of conviction has been entered against an individual or entity by a federal, state, or local court, regardless of whether there is a post-trial motion or an appeal pending or the judgment of conviction or other record relating to the criminal conduct has been expunged or otherwise removed.

(B) A federal, state, or local court has made a finding of guilt against an individual or entity.

(C) A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity.

(D) An individual or entity has entered into participation in a first offender, deferred adjudication, or other program or arrangement in which judgment of conviction has been withheld.

(5) "Professionally recognized standards of health care" means statewide or national standards of care, whether in writing or not, that professional peers of the individual or entity whose provision of care is an issue, recognize as applying to those peers practicing or providing care within a state. When the United States Department of Health and Human Services has declared a treatment modality not to be safe and effective, practitioners that employ that treatment modality shall be deemed not to meet professionally recognized standards of health care. This definition shall not be construed to mean that all other treatments meet professionally recognized standards of care.

(6) "Unnecessary or substandard items or services" means those that are either of the following:

(A) Substantially in excess of the provider's usual charges or costs for the items or services.

(B) Furnished, or caused to be furnished, to patients, whether or not covered by Medicare, Medicaid, or any of the state health care programs to which the definitions of applicant and provider apply, and which are substantially in excess of the patient's needs, or of a quality that fails to meet professionally recognized standards of health care. The department's determination that the items or services furnished were excessive or of unacceptable quality shall be made on the basis of information, including sanction reports, from the following sources:

(i) The professional review organization for the area served by the individual or entity.

(ii) State or local licensing or certification authorities.

(iii) Fiscal agents or contractors, or private insurance companies.

(iv) State or local professional societies.

(v) Any other sources deemed appropriate by the department.

(7) "Enrolled or enrollment in the program" means authorized under any and all processes by the department or its agents or contractors to receive, directly or indirectly, reimbursement for the provision of services, goods, supplies, or merchandise to a program beneficiary.

(n) In lieu of, or in addition to, the imposition of any other sanctions available, including the imposition of a civil penalty under Section 14123.2 or 14171.6, the program may impose on providers any or all of the penalties pursuant to Section 14123.25, in accordance with the provisions of that section. In addition, program providers shall be subject to the penalties contained in Section 14107.

(o)

(1) Notwithstanding any other law, every primary supplier of pharmaceuticals, medical equipment, or supplies shall maintain accounting records to demonstrate the manufacture, assembly, purchase, or acquisition and subsequent sale, of any pharmaceuticals, medical equipment, or supplies, to providers. Accounting records shall include, but not be limited to, inventory records, general ledgers, financial statements, purchase and sales journals, and invoices, prescription records, bills of lading, and delivery records.

(2) For purposes of this subdivision, the term "primary supplier" means any manufacturer, principal labeler, assembler, wholesaler, or retailer.

(3) Accounting records maintained pursuant to paragraph (1) are subject to audit or examination by the department or its agents. The audit or examination may include, but is not limited to, verification of what was claimed by the provider. These accounting records shall be maintained for three years from the date of sale or the date of service.

(p) Each provider of health care services rendered to any program beneficiary shall keep and maintain records of each service rendered, the beneficiary to whom rendered, the date, and any additional information that the department may by regulation require. Records required to be kept and maintained pursuant to this subdivision shall be retained by the provider for a period of three years from the date the service was rendered.

(q) A program provider applicant or a program provider shall furnish information or copies of records and documentation requested by the department. Failure to comply with the department's request shall be grounds for denial of the application or automatic disenrollment of the provider.

(r) A program provider may assign signature authority for transmission of claims to a billing agent subject to Sections 14040, 14040.1, and 14040.5.

(s) Moneys payable or rights existing under this division shall be subject to any claim, lien, or offset of the State of California, and any claim of the United States of America made pursuant to federal statute, but shall not otherwise be subject to enforcement of a money judgment or other legal process, and no transfer or assignment, at law or in equity, of any right of a provider of health care to any payment shall be enforceable against the state, a fiscal intermediary, or carrier.

(t)

(1) Notwithstanding any other law, within 30 calendar days of receiving a complete application for enrollment into the Family PACT Program from an affiliate primary care clinic licensed under *Section 1218.1 of the Health and Safety Code*, the department shall do one of the following:

(A) Approve the provider's Family PACT Program application, provided the applicant meets the Family PACT Program provider enrollment requirements set forth in this section.

(B) If the provider is an enrolled Medi-Cal provider in good standing, notify the applicant in writing of any discrepancies in the Family PACT Program enrollment application. The applicant shall have 30 days from the date of written notice to correct any identified discrepancies. Upon receipt of all requested corrections, the department shall approve the application within 30 calendar days.

(C) If the provider is not an enrolled Medi-Cal provider in good standing, the department shall not proceed with the actions described in this subdivision until the department receives confirmation of good standing and enrollment as a Medi-Cal provider.

(2) The effective date of enrollment into the Family PACT Program shall be the later of the date the department receives confirmation of enrollment as a Medi-Cal provider, or the date the applicant meets all Family PACT Program provider enrollment requirements set forth in this section.

(u) Providers, or the enrolling entity, shall make available to all applicants and beneficiaries prior to, or concurrent with, enrollment, information on the manner in which to apply for insurance affordability programs, in a manner determined by the State Department of Health Care Services. The information provided shall include the manner in which applications can be submitted for insurance affordability programs, information about the open enrollment periods for the California Health Benefit Exchange, and the continuous enrollment aspect of the Medi-Cal program.

SEC. 327.

Section 325 of Chapter 303 of the Statutes of 2015 is amended to read:

Sec. 325.

Section 44525.7 of the Health and Safety Code, as added by Section 7 of Chapter 915 of the Statutes of 2000, is repealed.

SEC. 328.

Section 330 of Chapter 303 of the Statutes of 2015 is amended to read:

Sec. 330.

The heading of Chapter 4 (commencing with former Section 101500) of Part 3 of Division 101 of the Health and Safety Code, as added by Section 3 of Chapter 415 of the Statutes of 1995, second text, is repealed.

SEC. 329.

Section 8 of Chapter 590 of the Statutes of 2015 is amended to read:

Sec. 8. Section 913.8 is added to the Public Utilities Code, to read:

913.8.

In the report prepared pursuant to Section 913.7, the commission shall include an assessment of each electrical corporation's and each gas corporation's implementation of the program developed pursuant to *Section 25943 of the Public Resources Code*.

SEC. 330.

Any section of any act enacted by the Legislature during the 2016 calendar year that takes effect on or before January 1, 2017, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2016 calendar year and takes effect on or before January 1, 2017, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

History

Approved by Governor July 22, 2016

Filed with Secretary of State July 22, 2016

CALIFORNIA ADVANCE LEGISLATIVE SERVICE